



CITY OF NAPA

955 School Street
Napa, CA 94559
www.cityofnapa.org

MEETING MINUTES - Draft

CITY COUNCIL

Mayor Scott Sedgley
Vice Mayor Liz Alessio
Councilmember Mary Luros
Councilmember Bernie Narvaez
Councilmember Beth Painter

Tuesday, August 17, 2021

3:30 PM

City Hall Council Chambers

3:30 PM Afternoon Session

6:30 PM Evening Session

3:30 P.M. AFTERNOON SESSION

1. CALL TO ORDER: 3:33 P.M.

1.A. Roll Call:

Present: 5 - Councilmember Luros, Councilmember Narvaez, Councilmember Painter, Vice Mayor Alessio, and Mayor Sedgley

2. AGENDA REVIEW AND SUPPLEMENTAL REPORTS:

City Clerk Carranza announced the following supplemental documents:

Item 3.A.: PowerPoint Presentation by Dr. Amy Herold.

Item 3.B.: Proclamation

Item 4.:

- Email from Theresa Karr, on behalf of Senator Dodd
- Email from Amy Martenson
- Email with letter from Lauren Niehaus, Director of Government Relations for Harvest Health & Recreation, Inc.

(Copies of all supplemental documents are included in Attachment 1)

3. SPECIAL PRESENTATIONS:

- 3.A.** [307-2021](#) COVID-19 Update from Queen of the Valley Hospital's Chief Medical Officer, Amy Herold, M.D.

(See supplemental document in Attachment 1)

Dr. Amy Herold, Chief Medical Officer, Providence Queen of the Valley Medical Center, provided the report via video conference.

Mayor Sedgley brought the discussion back to Council. Dr. Herold responded to brief questions from Council.

- 3.B.** [303-2021](#) Recognition of Sheila Esser, Accounting and Audit Supervisor

(See supplemental document in Attachment 1)

Mayor Sedgley and members of City Council presented a proclamation to Sheila Esser, Accounting and Audit Supervisor, on the occasion of her retirement.

4. PUBLIC COMMENT:

Leigh Glasgow, Nurse at the Queen of the Valley Hospital - shared the current situation for the bed side nurse, and shared her personal experiences.

Kim Butts, Nurse, at the Queen of the Valley Hospital - spoke regarding current staffing restrictions and challenges.

Billie Riley, Nurse at the Queen of the Valley Hospital - shared personal experiences, spoke regarding COVID-19 care, encouraged hand hygiene, masks and getting vaccinated.

Lucy - Queen of the Valley Hospital employee - spoke regarding COVID-19 care at the hospital and shared personal experiences, noted concerns with limited staffing and resources. Asked the public to take steps to prevent COVID-19.

Jim Hinton, resident - questioned practices of the staff at the Queen of the Valley Hospital, voiced concerns regarding the effectiveness of the COVID-19 vaccine and suggested homeopathic methods to build immunity.

5. CONSENT CALENDAR:

Approval of the Consent Agenda

A motion was made by Councilmember Lueros, seconded by Vice Mayor Alessio, to approve the Consent Agenda with item 5.D. pulled for public comment. The motion carried by the following vote:

Aye: 5 - Lueros, Narvaez, Painter, Alessio, and Sedgley

5.A. [301-2021](#)

City Council Meeting Minutes

Approved the August 3, 2021 Regular Meeting Minutes.

5.B. [281-2021](#)

Monthly Budget and Investment Statement

Received the Monthly Budget and Investment Statement as of June 30, 2021.

5.C. [265-2021](#)

Gann Appropriation Limits for Fiscal Year 2021/22

Approved Resolution R2021-081 establishing the Gann appropriations limit for Fiscal Year 2021/22.

Enactment No: R2021-081

5.D. [216-2021](#)

Marketing, Advertising, Public Relations, Event Planning & Related Services for Tourism Promotion

The item was pulled for public comment.

Jim Hinton, resident - posed questions regarding the compensation of the consultants and shared that he would like to see money spent to advertise in other cities to attract out-of-town visitors.

Councilmember Lueros shared that the services agreement was attached to the staff report and included a full scope of work and rate structure.

A motion was made by Councilmember Lueros, seconded by Vice Mayor Alessio, to approve a Service Agreement with D. Augustine & Associates, Inc. for Marketing, Advertising, Public Relations, Event Planning & Related Services for Tourism Promotion for the term of July 1, 2021 to June 30, 2022 for an amount not-to-exceed of \$450,000, funded by assessment revenue from the Napa Valley Tourism Improvement District. The motion carried by the following vote:

Aye: 5 - Lueros, Narvaez, Painter, Alessio, and Sedgley

5.E. [277-2021](#)

Authorization to participate in the Department of Defense Firefighter Property (FFP) Program

Adopted Resolution R2021-082 authorizing the Fire Chief to execute a Cooperative Agreement with the State of California for participation in the Department of Defense Firefighter Property (FFP) Program.

Enactment No: R2021-082

- 5.F.** [283-2021](#) Authorization to participate in the Federal Excess Personal Property (FEPP) Program.
- Adopted Resolution R2021-083 authorizing the Fire Chief to execute a Cooperative Agreement with the State of California for participation in the Federal Excess Personal Property (FEPP) Program in accordance with the United States Forest Service Cooperative Forestry Assistance Act (CFAA).
- Enactment No: R2021-083
- 5.G.** [285-2021](#) On-Call Structural Engineering Services
- Authorized the Public Works Director to execute on behalf of the City agreements with two structural engineering consulting firms: (1) ZFA Structural Engineers; and (2) Simpson Gumpertz & Heger, Inc. for task-order based on-call structural engineering services, each in an amount not to exceed \$500,000.
- 5.H.** [286-2021](#) On-Call Mechanical, Electrical, and Plumbing Engineering Services
- Authorized the Public Works Director to execute on behalf of the City agreements with three mechanical, electrical, and plumbing engineering consulting firms: (1) Axiom Engineers, (2) Glumac, and (3) Costa Engineers for task-order based on-call mechanical, electrical, and plumbing engineering services, each in an amount not to exceed \$500,000.
- 5.I.** [287-2021](#) On-Call Environmental Consulting Services
- Authorized the Public Works Director to execute on behalf of the City agreements with three environmental consulting firms: (1) Nichols Consulting Engineers, Chtd.; (2) LSA Associates, Inc.; and (3) GHD, Inc., for task-order based on-call environmental consulting services, each in an amount not to exceed \$500,000.
- 5.J.** [305-2021](#) Maintenance of Public Streets in the Unincorporated County
- Adopted Resolution R2021-084 authorizing the City Manager to execute agreements with the County of Napa to provide City forces to maintain public streets in the unincorporated county and determining that the actions authorized by this resolution are exempt from CEQA.
- Enactment No: R2021-084

6. ADMINISTRATIVE REPORTS:

- 6.A.** [273-2021](#) Proclamation of Local Emergency to Respond to the Coronavirus (COVID-19)
- City Manager Potter provided the report which included an update on COVID-19 case numbers and information regarding Assembly Bill No. 832 which provided additional rent relief assistance to those facing financial hardships due to COVID-19.

Mayor called for public comment; there were no requests to speak.

Vice Mayor Alessio spoke regarding case numbers and provided additional housing resources.

A motion was made by Vice Mayor Alessio, seconded by Councilmember Painter, to continue the Proclamation of Local Emergency authorizing the City Manager to take actions necessary to respond to the Coronavirus (COVID-19); and ratify actions taken by the City Manager in implementation of the Proclamation of Local Emergency. The motion carried by the following vote:

Aye: 5 - Lueros, Narvaez, Painter, Alessio, and Sedgley

- 6.B.** [243-2021](#) League of California Cities Voting Delegate
- Mayor Sedgley suggested that Vice Mayor Alessio be appointed; she voiced her willingness to serve. Discussion ensued regarding appointment of the alternate member.

A motion was made by Vice Mayor Alessio, seconded by Councilmember Painter, to appoint Vice Mayor Alessio as the Voting Delegate and Councilmembers Painter and Narvaez as Alternates to the League of California Cities Annual Business Meeting, for the Annual Conference & Expo - September 22-24, 2021. The motion carried by the following vote:

Aye: 5 - Lueros, Narvaez, Painter, Alessio, and Sedgley

7. COMMENTS BY COUNCIL OR CITY MANAGER: None.

8. CLOSED SESSION:

City Attorney Barrett announced the Closed Session item.

- 8.A.** [321-2021](#) CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION (Government Code Section 54956.9(d)(1)): U.S. District Court, Northern District of California, Case No. 19-CV-06898-VC.

CITY COUNCIL RECESS: 4:28 P.M.

6:30 P.M. EVENING SESSION

9. CALL TO ORDER: 6:30 P.M.**9.A. Roll Call:**

Present: 5 - Councilmember Luros, Councilmember Narvaez, Councilmember Painter, Vice Mayor Alessio, and Mayor Sedgley

10. PLEDGE OF ALLEGIANCE:**11. AGENDA REVIEW AND SUPPLEMENTAL REPORTS:**

City Clerk Carranza announced the following supplemental items:

Item 13.A.:

- PowerPoint Presentation by City Staff
- Emails from the following:
 - * Reed Onate
 - * Kerry Ahearn, Aldea Chief Executive Officer
 - * Monica Silva
 - * Stuart Goldie
 - * Alan Charles Dell'Ario
 - * Robert Silva
 - * Ellen Pinto
 - * Nicole Angrisani from CostaLaw
 - * Skip Keyser
 - * Timothy Martin
 - * Garrett Boles
 - * Michael LeBlanc containing 74 letters of support

(Copies of all supplemental documents are included in Attachment 2)

12. PUBLIC COMMENT:

(See supplemental document in Attachment 2)

Elsa Vare, resident - shared concerns regarding the City of Napa's Building Codes and asked for an updated ordinance.

Jim Hinton, resident - spoke regarding weed abatement, and shared concerns regarding water usage at the Expo.

13. PUBLIC HEARINGS/APPEALS:

13.A. [256-2021](#)

Ace & Vine Card Room 24 Hour Operation

(See supplemental documents in Attachment 2)

Mayor Sedgley opened the public Hearing.

Senior Planner Michael Allen provided the staff report.

Mayor Sedgley asked for disclosures; Mayor and Council provided them.

Applicant Michael LeBlanc provided an opening statement in which he further reviewed the project, and the request to expand the operating hours.

Jeff Dodd on behalf of the Ace and Vine Team provided additional remarks in support of the expansion.

Mayor Sedgley opened public testimony.

Greg Gregory, resident - spoke in support, but asked that if an outdoor tent be needed in the future, it not be authorized.

Frank, resident - spoke in support.

Rick Vasquez, resident - spoke in support.

Eric Daniel, resident - spoke in opposition.

Myles - spoke in support.

Mark Pickens, General Manager of Ace and Vine - spoke in support.

Kendra, resident - spoke in support.

Michael Galyen, Owner of Napa Sport and Food and Beverage Director of Ace and Vine - spoke in support.

James Hinton, resident - spoke in opposition.

A motion was made by Vice Mayor Alessio, seconded by Councilmember Luros to close the public testimony. The motion carried unanimously.

There was no rebuttal from the applicant team.

Mayor brought the discussion back to Council.

Council questions ensued.

Police Chief Gonzales responded to questions regarding calls for service and security.

City staff and the applicant team responded to questions regarding security, restaurant operations and fees.

Individual Council comments ensued.

A motion was made by Councilmember Narvaez, seconded by Councilmember Painter, to adopt Resolution R2021-085 approving a Use Permit to expand the operating hours of the Ace & Vine's Card Room at 505 Lincoln Avenue to 24 hours a day and determining that the actions authorized by this resolution are exempt from CEQA. The motion carried by the following vote:

Aye: 3 - Narvaez, Painter, and Sedgley

No: 2 - Lueros, and Alessio

Enactment No: R2021-085

14. REPORT ACTION TAKEN IN CLOSED SESSION:

City Attorney Barrett announced that there was no reportable action taken in Closed Session.

15. COMMENTS BY COUNCIL OR CITY MANAGER: None.

16. ADJOURNMENT: 8:15 P.M.

Submitted by:

Tiffany Carranza, City Clerk

ATTACHMENT 1

SUPPLEMENTAL REPORTS & COMMUNICATIONS
Office of the City Clerk

City Council of the City of Napa
Regular Meeting

August 17, 2021

FOR THE CITY COUNCIL OF THE CITY OF NAPA:

AFTERNOON SESSION:

3. SPECIAL PRESENTATIONS:

3.A. COVID-19 Update from Queen of the Valley Hospital's Chief Medical Officer, Amy Herold, M.D.

- PowerPoint Presentation by Dr. Amy Herold.

3.B. Recognition of Sheila Esser, Accounting and Audit Supervisor

- Proclamation.

4. PUBLIC COMMENT:

- 1) Email from Theresa Karr on behalf of Senator Dodd received on August 13, 2021.
- 2) Email from Amy Martenson received on August 14, 2021.
- 3) Email with letter attached from Lauren Niehaus, Director of Government Relations for Harvest Heath & Recreation, Inc. received on August 16, 2021.

Napa City Council Update: 8/17/2021

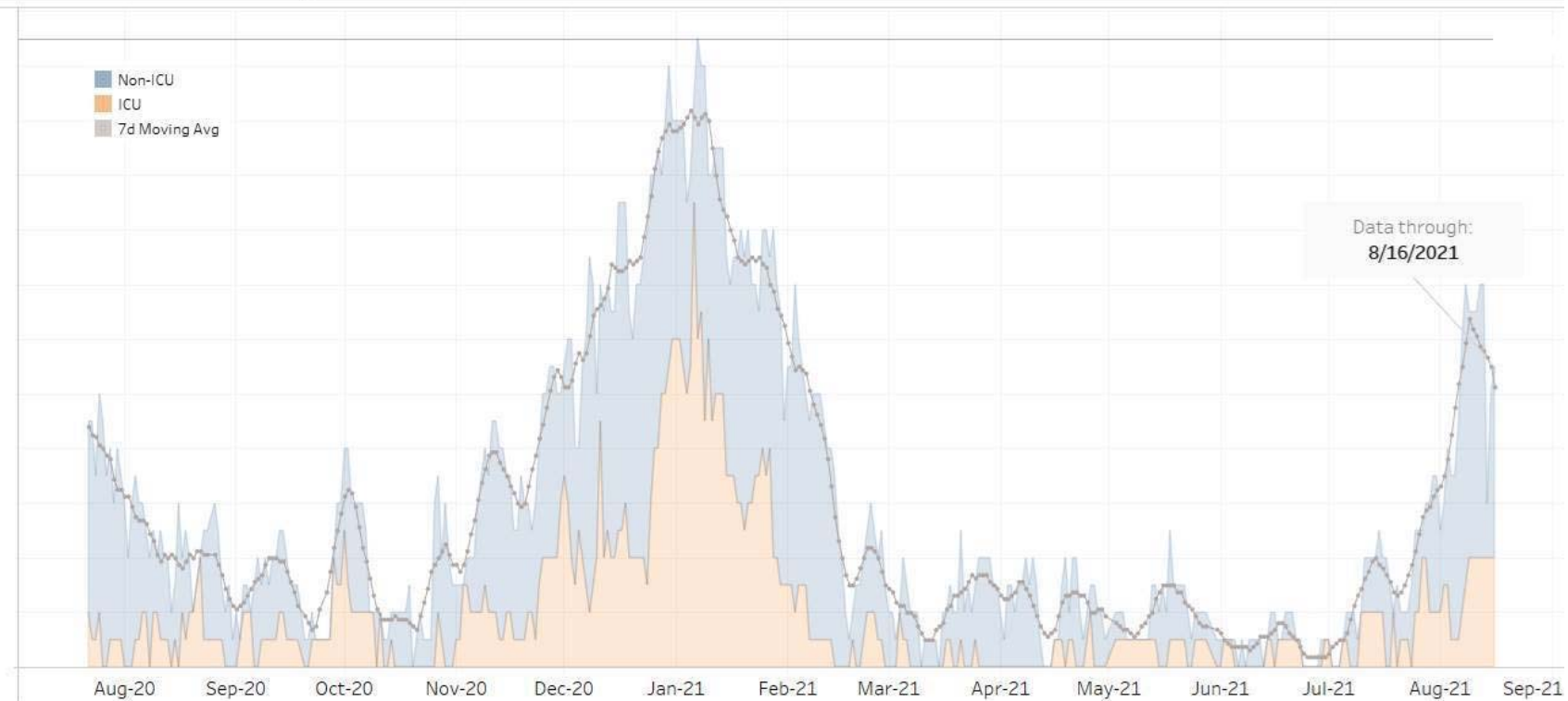
Dr. Amy Herold

Chief Medical Officer,
Providence Queen of the
Valley Medical Center



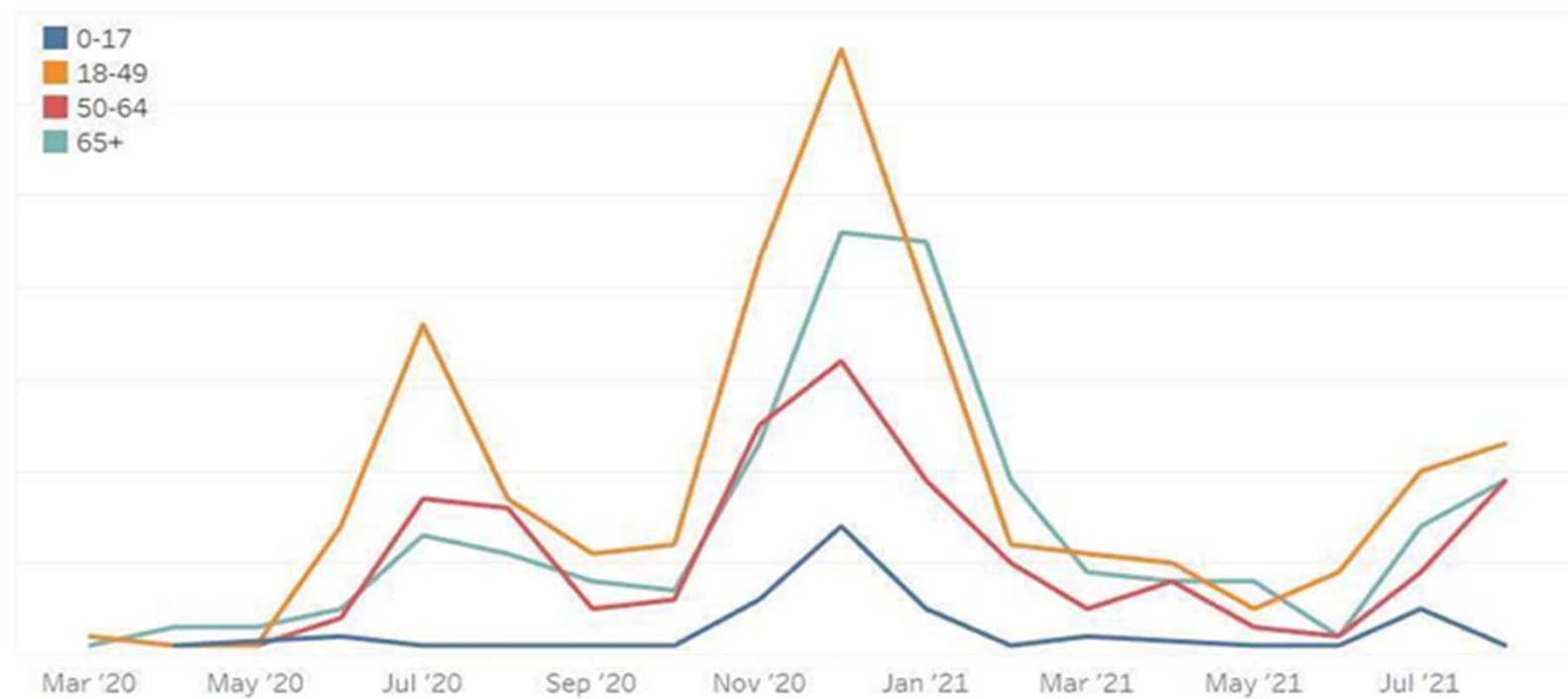
Hospital Covid-19 Admission Trends

QVH - COVID Confirmed Inpatient Census



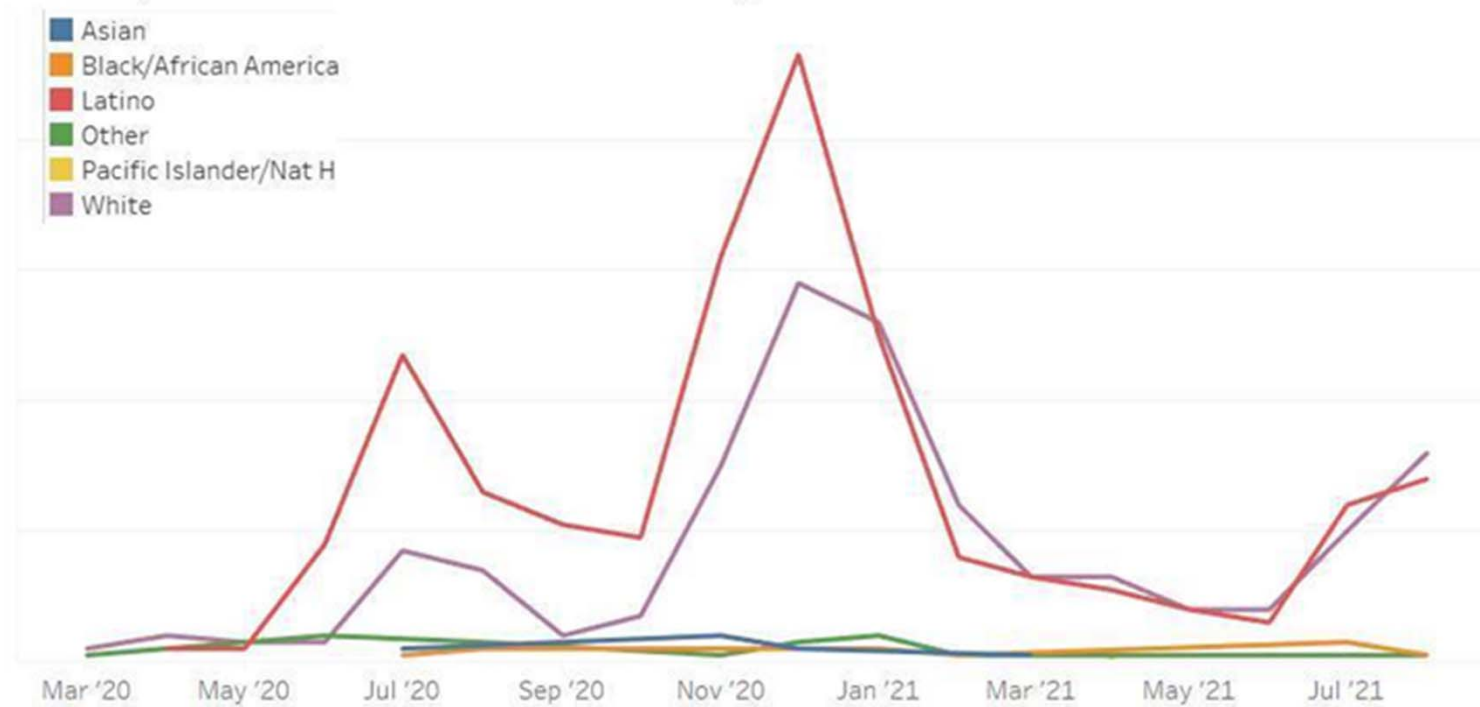
Covid Hospital Visits by Age

ED + Inpatient Visits - Queen of the Valley Medical Center



Covid Hospital Visits by Ethnicity

ED + Inpatient Visits - Queen of the Valley Medical Center



Current Hospital Impact

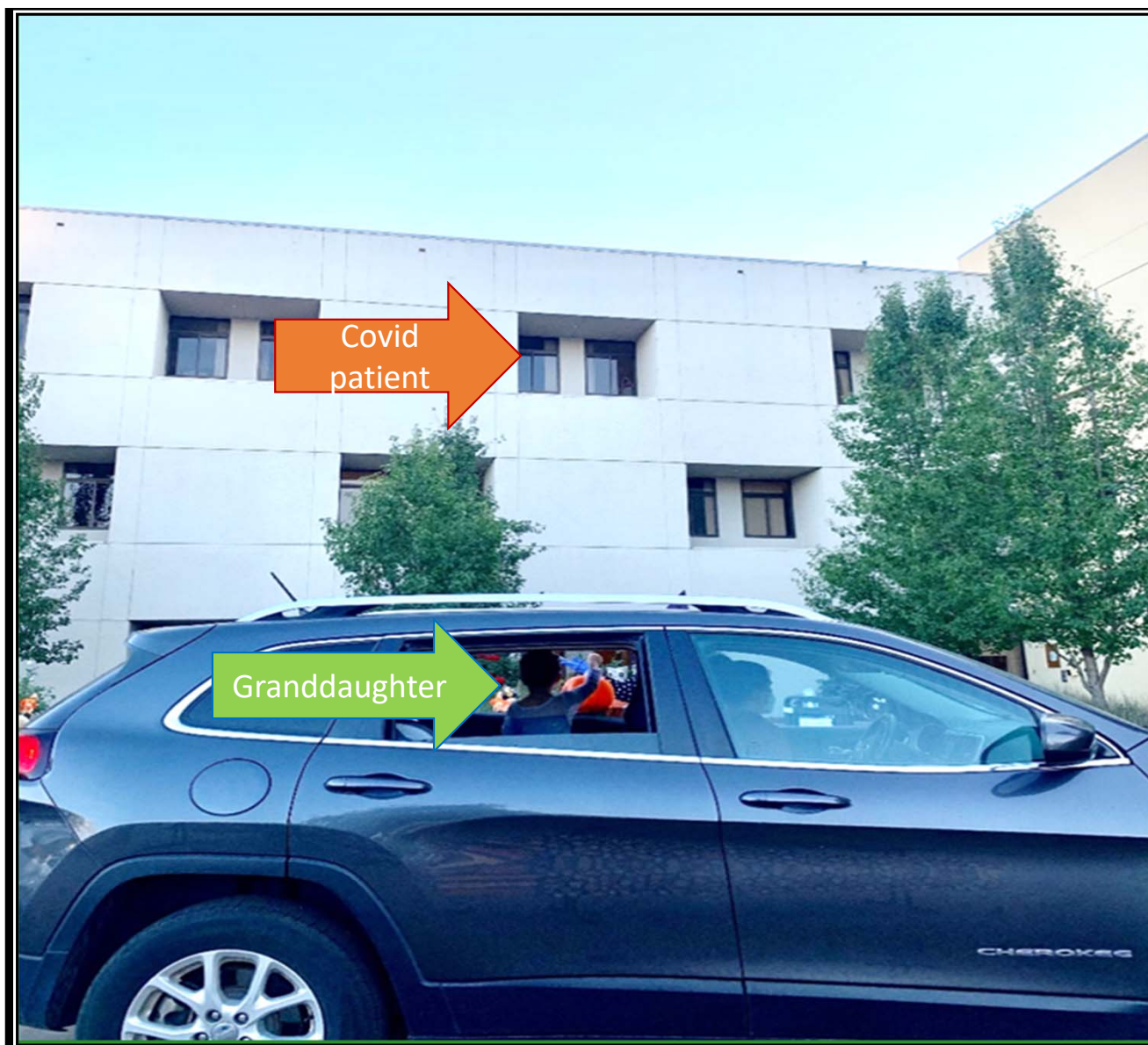
Covid Unit nearly full

Emergency Department full

Lack of staff (nationwide) impacts surgical scheduling and procedures

CDPH Mandates and AFLs (all facility letters)

- All healthcare workers must be vaccinated or tested twice weekly
 - Shortage of testing supplies
- Limit visitors to the hospital and they must show proof of vaccination or negative test
 - At QVMC visitation limited to pediatric, maternity and end-of-life care
- Daily ICU bed counts and mandatory acceptance of ICU patients



CITY OF NAPA
PROCLAMATION

Honoring Sheila Esser
Accounting and Audit Supervisor
August 17, 2021

WHEREAS, Sheila Esser was hired as an Accountant in the Finance Department on April 20, 1998, and was subsequently appointed to Acting Accounting and Audit Supervisor on January 1, 2006, and was promoted to Accounting and Audit Supervisor on January 1, 2008; and

WHEREAS, through her conscientious and collaborative work ethic and extreme patience, Sheila has maintained our payroll system, rising above the chaos to ensure everyone is paid accurately and timely; and

WHEREAS, Sheila has always been an advocate for employees and is always available to answer questions and share her benefits and finance expertise and knowledge; and

WHEREAS, Sheila has always provided strong leadership and support to her staff with her approachable management style and ‘everything is fixable’ attitude; and

WHEREAS, as a 30-year public servant and 23-year veteran of the Finance Department, Sheila’s commitment and dedication to the City and her fellow City employees is admirable and much appreciated by all, and her expertise, collaboration and passion will be missed.

NOW, THEREFORE, BE IT RESOLVED, that I, Scott Sedgley, Mayor of the City of Napa, along with the City Council, do hereby recognize Sheila Esser for her many contributions, dedication, and commitment to the City of Napa and to its citizens and wish her well in her retirement and future endeavors.

Dated: August 17, 2021

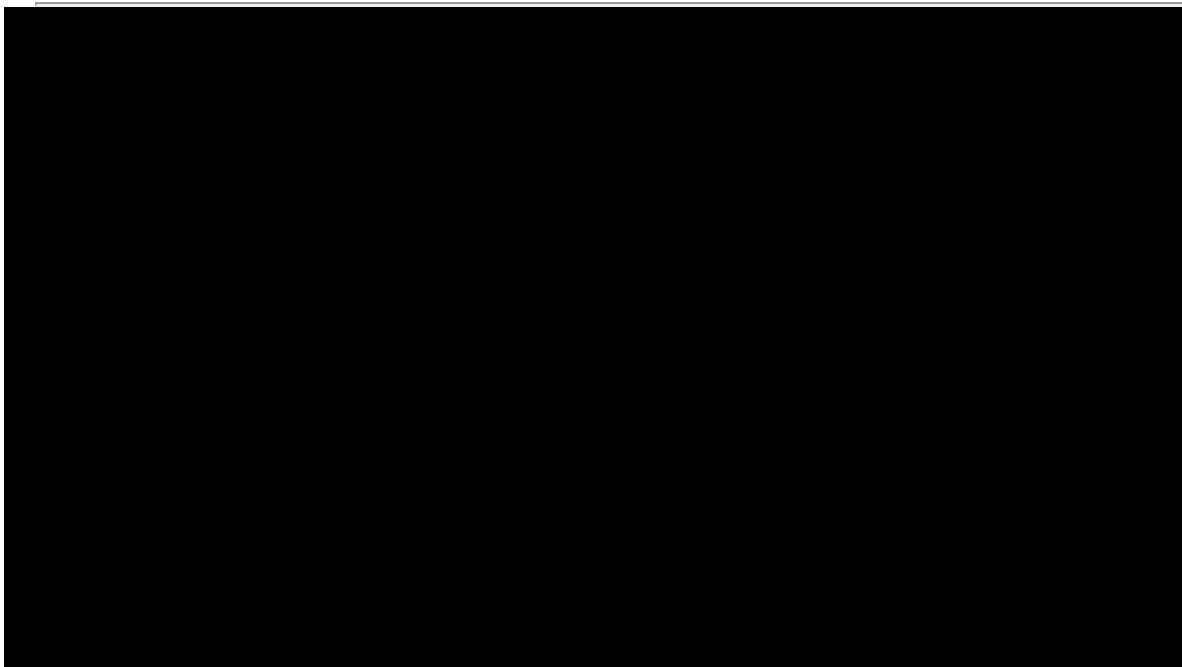
SCOTT SEDGLEY, MAYOR
CITY OF NAPA

From: [Liz Alessio](#)
Sent: Friday, August 13, 2021 6:14 PM
To: [Clerk](#)
Cc: [Steve Potter](#)
Subject: Fw: Answers to Rent Relief Questions

Categories: Pending

Please share with all of Napa City Council the below information from Senator Dodd's office.

Thank you,
Liz



[EXTERNAL]

I hope all is going well with rent relief applications being submitted and processed.

I apologize for the length of time it has taken to get answers to questions received. It was not a lack of asking it was a delay in receiving answers. The answers below were given from HCD. I hope these help and if you have any other questions feel free to forward to me and I will try to get you answers.

- Tenants that have vacated owing rent. What is the process for collecting this owed rent?

If a tenant is no longer living in the unit but has COVID-19 related rental debt and meets household income requirements they can apply for rent assistance, however, the landlord must also apply for the program. HCD will only pay landlords directly in these situations.

- How will the rent given to tenants whose landlords refuse to participate be tracked? What if tenants just take the money and run?

Tenants sign an attestation document in the application that they agree to pay the landlord any funds received from this program within 15 days. Falsification of documents or any material

falsehoods or omissions in an application to this program are subject to state and federal criminal penalties.

- Rents going forward beginning with April 2021 what is the process to apply 1) tenants who still owe rent and previous applications have been submitted and no funds have been released or notified if payment is on the way 2) Arrears rent received from 4/2020 to 3/2021 anticipating no rent payments or perhaps 25% rent for April, May, June, July, August, September?

If tenants have been paid, our system will automatically send a notification 60 days after payment asking if they still need additional assistance. If they do, they can reopen their original application and include the additional assistance they are requesting, up to 15 months assistance. Depending on what documentation they provided as their income verification, there may be a need to recertify their income at that time. Tenants and landlords should not open a new application as this will increase the processing time of their request.

- Is there a process for either party (landlord/tenant) to track each other's application? If there are problems or missing information they may be able to assist one another if they know what is missing and needed. Often landlords can assist their tenants with needed documentation.

If tenant and landlord applications are linked in the system, the landlord can check the status of the applications. Tenants do not have the ability to check the landlord application status.

- Landlord has received 80% of arrears rent and 25% for each 3 months April 2021-June 2021. The landlord wants to know if he is going to receive another check for 20% of 80% already paid and if he is going to receive 75% for each 3 months April – June and how does he apply for the next 3 months July 2021 – Sept. 2021? Or, does he have to wait until September 30th to apply for 100% of rent due July – Sept.?

Landlords and tenants who were "topped off" due to AB 832, will be topped off to 100% of the rent currently owed on the rent ledger. Currently, our system will send an email to tenants 60 days after they have been paid asking if they still have an additional need. They are asked to reopen their existing application to apply for the additional assistance, up to 15 months. The follow-up emails are sent to the tenants only as they will need to re-certify that they still have a need for rental assistance.

Theresa Karr

Theresa.karr@sen.ca.gov

T [REDACTED]

"Things work out best for those who make the best of how things work out" – John Wooden

From: [Planning Commission](#)
Sent: Monday, August 16, 2021 8:15 AM
To: [Patricia Baring](#)
Subject: FW: EHT Victorious in Federal Court Case Against the FCC on Wireless Radiation Limits

Good morning,

Please see the below message directed to the Planning Commission.

Thank you,

Patty Baring (*she/her/ella*)
 Secretary, Planning Division

Community Development Department, City of Napa

1600 First Street, Napa, CA 94559 · PO Box 660

Phone (707) 257-9360

Email pbaring@cityofnapa.org

Website www.cityofnapa.org

Social www.facebook.com/CityOfNapa · @CityOfNapa



**We deliver professional
and responsive services to improve
the quality of life in our community.**

Planning Division Customer Service Update: City buildings re-opened to the public on July 6, 2021. We are open Monday through Thursday, from 8 AM to 5 PM; offices will be physically closed to the public on Fridays. Every day, including Friday, community members will still be able to access Planning staff and services by phone or by appointment. We respectfully ask

that all visitors to our facilities please wear a mask when indoors, as the safety of our community and our staff is of the utmost importance.

Due to current staffing levels, we encourage you to schedule an appointment prior to coming to the office. Most appointments can be handled via TEAMS or Zoom and will be scheduled accordingly. We are receiving live phone calls Monday through Thursday and strive to return calls within 24 hours. On Friday, please leave a detailed message including the address of the property you are inquiring about and we will call you back on Monday.

We accept new project submittals and resubmittals by email and do not require hard copy plans; payments can be mailed or dropped off at our office. For Code Enforcement-related issues, call the Code Enforcement Hotline at 707-257-9646. For more information, visit: <https://www.cityofnapa.org/915/Coronavirus-COVID-19-Update>

From: Amy Martenson [REDACTED]
Sent: Saturday, August 14, 2021 9:33 AM
To: Amy Martenson [REDACTED]
Subject: Fwd: EHT Victorious in Federal Court Case Against the FCC on Wireless Radiation Limits

[EXTERNAL]

Dear local decision maker:

I am forwarding the recent federal court decision ordering the FCC to explain its wireless (RF) radiation exposure limit in response to a lawsuit from safe tech advocates regarding the FCC's failure to review the scientific literature since 1996 and update its exposure limit accordingly.

There should be a moratorium on the approval of any new cell antennas or cell towers until the applicant can show proof that the FCC has complied with the order.

Sincerely,

Amy Martenson

Begin forwarded message:

From: "Dr. Devra Davis, PhD" <info@ehtrust.org>
Subject: EHT Victorious in Federal Court Case Against the FCC on Wireless Radiation Limits

Date: August 13, 2021 at 2:39:31 PM PDT
 To: [REDACTED]
 Reply-To: info@ehtrust.org

Victory!

In Historic Decision, Federal Court Orders FCC to Explain Why It Ignored Scientific Evidence Showing Harm from Wireless Radiation

In Historic Decision, Federal Court Orders FCC to Explain Why It Ignored Scientific Evidence Showing Harm From Wireless Radiation

United States Court of Appeals for the District of Columbia Circuit judges in favor of environmental health groups and petitioners; finds FCC violated the Administrative Procedure Act and failed to respond to comments on environmental harm.

Today, the United States Court of Appeals for the District of Columbia Circuit [ruled](#) in the historic case EHT et al. v. the FCC that the December 2019 decision by the Federal Communications Commission (FCC) to retain its 1996 safety limits for human exposure to wireless radiation was "arbitrary and capricious."

The court held that the FCC failed to respond to "record evidence that exposure to RF radiation at levels below the Commission's current limits may cause negative health effects unrelated to cancer." Further, the agency demonstrated "a complete failure to respond to comments concerning environmental harm caused by RF radiation."

"We are delighted that the court upheld the rule of law and found that the FCC must provide a reasoned record of review for the thousands of pages of scientific evidence submitted by Environmental Health Trust and many other expert authorities in this precedent setting case. No agency is above the law. The American people are well served," said Dr. Devra Davis, president of Environmental Health Trust.

Edward B. Myers, attorney for Environmental Health Trust, the lead petitioner in the case, EHT et al. v. the FCC stated, "The court granted the petitions for review because, contrary to the requirements of the Administrative Procedure Act (APA), the commission failed to provide a reasoned explanation for its assertion that its guidelines adequately protect against the harmful effects of exposure to radiofrequency radiation."

"I am very pleased to see that the U.S. Court of Appeals for the District of Columbia Circuit has ruled that the FCC ignored decades of studies about the potential health harms of cell phone radiation and must adequately review this

material before making a decision about new regulations of cell phones," said Dr. Jerome Paulson, former American Academy of Pediatrics Environmental Health Council Chair and now Professor Emeritus of Pediatrics and Environmental and Occupational Health at George Washington University School of Medicine and Health Sciences and Milken Institute School of Public Health. "It is very important that the court ruled that the FCC must address the impacts of radiofrequency radiation on the health of children amassed since 1996." The American Academy of Pediatrics' [submission to the FCC](#) called for a review of safety limits to protect children and pregnant women.

In overturning the FCC determination for its lack of reasoned decision making, the court wrote that the commission cannot rely on agencies like the Food and Drug Administration (FDA) if the FDA's conclusions are provided without explanation.

"While imitation may be the highest form of flattery, it does not meet even the low threshold of reasoned analysis required by the APA under the deferential standard of review that governs here. One agency's unexplained adoption of an unreasoned analysis just compounds rather than vitiates the analytical void. Said another way, two wrongs do not make a right," the court wrote.

The court further noted that the FCC failed to respond to approximately 200 comments on the record by people who experienced illness or injury from electromagnetic radiation sickness.

The court ordered the commission to "(i) provide a reasoned explanation for its decision to retain its testing procedures for determining whether cell phones and other portable electronic devices comply with its guidelines, (ii) address the impacts of RF radiation on children, the health implications of long-term exposure to RF radiation, the ubiquity of wireless devices, and other technological developments that have occurred since the Commission last updated its guidelines, and (iii) address the impacts of RF radiation on the environment."

[Download August 13, 2021 United States Court of Appeals, District of Columbia Circuit ENVIRONMENTAL HEALTH TRUST, ET AL., PETITIONERS v. FEDERAL COMMUNICATIONS COMMISSION AND UNITED STATES OF AMERICA](#)

The landmark case centers around the FCC's decision not to update its 1996 exposure limits for wireless radiation from cell phones, cell towers, and wireless devices. Environmental Health Trust experts have long argued that the FCC's outdated limits place Americans everywhere at risk, especially in the era of 5G.

Read More About the Case Against the FCC

In response to the court's historic ruling, Environmental Health Trust and petitioners released the following statements:

Devra Davis PhD, MPH, President Environmental Health Trust, author of [Disconnect: The Truth About Cell Phone Radiation, What the Industry Is Doing to Hide It and How to Protect Your Family.](#)

"If cell phones were a drug they would have been banned years ago. 5G would never have been allowed to market. An ever mounting body of published studies — ignored by the FCC — clearly indicates that exposure to wireless radiation can lead to numerous health effects, especially for children. Research indicates wireless radiation increases cancer risk, damages memory, alters brain development, impacts reproductive health, and much more. Furthermore, the way

the FCC measures our daily exposure to cell phone and cell tower radiation is fatally flawed and provides a false sense of security.”

“Environmental Health Trust submitted [hundreds of pages](#) of scientific evidence to the FCC over the last several years documenting the scientific data showing harm, the need for health agencies to create safety limits that protect against biological effects, and the urgency for infrastructure policy that prioritizes wired rather than wireless communications to reduce public exposure. While there is a lot of work left to do, today’s ruling is an important step in protecting people against the harms caused by wireless radiation exposure. Unfortunately, the telecom industry is now pushing millions of new 5G wireless antennas into neighborhoods and billions of new wireless devices, putting more in harm’s way everyday.

“While we celebrate today’s victory, we must look forward. Where do we go from here? We need a congressional hearing into how this agency operated above the law to ensure it never happens again. Committing to 5G merely ensures commercial success in selling new devices and cannot bridge the digital divide where many disadvantaged groups lack access to basic technologies. As we detail in EHT’s [letter to President Biden](#), the priority for infrastructure should be for wired rather than wireless internet connections. The U.S. needs a federal action plan on the issue of wireless radiation that should be informed by the latest science showing that current levels of radiation can damage human health and the environment.”

Theodora Scarato MSW, Executive Director of [Environmental Health Trust](#) and a petitioner in the case.

“This is a win for our children, our future, and our environment. The court’s decision should be a wake-up call worldwide. There was no premarket safety testing for cell phones or wireless networks before they came on the market decades ago. As the court points out in the ruling, silence from federal health and environmental agencies does ‘not constitute a reasoned explanation for the Commission’s decision.’ This ruling highlights how there has been no scientific review of the full body of scientific research to ensure people and the environment are protected. No federal agency has reviewed science indicating impacts to the brain, reproduction, trees, or wildlife — not the Food and Drug Administration, not the Centers for Disease Control, not the National Cancer Institute, not the Environmental Protection Agency. For decades, each of these agencies has downplayed the health effects of wireless radiation on their public websites. A telecom-financed scientist drafted webpages to be put online by our federal government. When people try to stop a cell tower from being built in front of their homes, they are told by their elected leaders that they cannot consider the issue of health effects due to the Telecommunications Act of 1996. This has to stop.

“We need an investigation of how our country ended up in this situation and a federal action plan to ensure it never happens again. It is imperative that our federal agencies immediately act to protect human health and the environment.”

Statement by Cindy Franklin of Consumers for Safe Phones, an organization that was a petitioner in the case.

“The FCC must now admit that its 25-year-old exposure guidelines are bogus. Our federal regulatory agencies are mandated to protect people and the environment from the known biological harm from exposure to microwave radiofrequency radiation. This ruling shows they have failed to do their jobs. The wireless industry can no longer hide behind the FCC’s so-called ‘safe’ exposure guidelines.”

Statement of Liz Barris of [The People’s Initiative Foundation](#).

“This day is a long time coming! So many people are suffering from the effects of wireless radiation and SO MANY are not even connecting their symptoms, illnesses, cancers, and even deaths to the radiation that is causing it because they trust and believe their government! The FCC failed to respond to ANY of the documentation submitted to them that people are being injured by ALL types of

wireless radiation, from cell phones and Wi-Fi to smart meters and cell towers. We need limits, backed by science, that do not harm people or our environment and thus far, the science shows that the only safe wireless radiation is no wireless radiation. Hard wired ethernet connections with plugin portals everywhere for cell phones and internet may be our best bet.”

About the Case

In EHT et al. v. the FCC, petitioners argued that the FCC ignored thousands of pages of research and expert testimony showing harmful effects from wireless radiofrequency radiation to humans, wildlife, and the environment when it decided that the 1996 wireless radiation limits did not need to be updated with a full health and safety review.

Environmental Health Trust filed its case in the Court of Appeals with Consumers for Safe Phones, Elizabeth Barris, and Theodora Scarato, MSW. They were represented by attorney Edward B. Myers. EHT’s case was then consolidated with a separate case filed by Children’s Health Defense, Michelle Hertz, Petra Brokken, Dr. David O. Carpenter, Dr. Toril Jelter, Dr. Paul Dart, Dr. Ann Lee, Virginia Farver, Jennifer Baran, and Paul Stanley M.Ed. Children’s Health Defense was represented by attorney Scott McCullough and Robert Kennedy Jr. Evidentiary briefs were jointly filed. Scott McCullough represented Environmental Health Trust, Children’s Health Defense, and petitioners in the oral arguments.

[Oral arguments](#) were held January 25, 2021, before a three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit including Hons. Karen Henderson, Patricia Millett, and Robert Wilkins.

Environmental Health Trust attorney Edward B. Myers previously intervened in the [successful case](#) of the Natural Resources Defense Council (NRDC) and several Native American tribes against the FCC. In this earlier case, the [court upheld](#) the relevance of the National Environmental Policy Act (NEPA). The NRDC filed an [amicus brief](#) in the EHT et al., v FCC case as well.

The FCC is represented in-house by William J. Scher, Ashley Stocks Boizelle, Jacob M. Lewis, and Richard Kiser Welch.

Read More About the Lawsuit

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Sent by info@ehtrust.org powered by



From: [Lauren Niehaus](#)
Sent: Monday, August 16, 2021 1:45 PM
To: [Clerk](#)
Subject: RE: Item 4 - 3:30pm Council Meeting - Public Comment
Attachments: City of Napa Public Comment Niehaus_8.17.2021.pdf

[EXTERNAL]

City Clerk Carranza,

Attached please find written comment for the record for the August 17th City Council meeting at 3:30pm, item number 4.

Thank you,

HARVEST

Lauren Niehaus | Director of Government Relations | 303.827.9039

| LNiehaus@harvestinc.com

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From: Clerk <clerk@cityofnapa.org>
Sent: Monday, August 16, 2021 8:26 AM
To: Lauren Niehaus <lniehaus@harvestinc.com>
Subject: RE: Item 4 - 3:30pm Council Meeting - Public Comment

Hi Lauren, good morning.

Our public comment procedures have changed due to the re-opening of public meetings in our City Hall Council Chambers for in-person attendance and public comment. City staff will no longer be registering members of the public for public comment via phone call.

You may send in an email and we will enter your written comments into the record for the August 17, 2021 City Council meeting. We will also route your written comments to City Council and City staff. They are no longer being read aloud.

You may refer to the agenda for more information regarding public comment procedures. You may view the City Council meeting agenda by clicking on the link below:

[Agenda \(11\).pdf](#)

Thank you for your participation!

Tiffany

Tiffany Carranza

City Clerk

Pronouns: She/her

City of Napa – City Hall



955 School Street, Napa, CA 94559
Phone (707) 257-9661
Email tcarranza@cityofnapa.org
Website www.cityofnapa.org

From: Lauren Niehaus <lniehaus@harvestinc.com>
Sent: Sunday, August 15, 2021 5:17 PM
To: Clerk <clerk@cityofnapa.org>
Subject: Item 4 - 3:30pm Council Meeting - Public Comment

[EXTERNAL]

Dear City Clerk,

I would like to provide public comment on non-agendized items at the 3:30pm meeting on August 17th. If Council is no longer accepting telephone commentary, please advise and I will provide written commentary to be read into the record.

Thank you,

HARVEST

Lauren Niehaus | Director of Government Relations | 303.827.9039

| LNiehaus@harvestinc.com

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HARVEST ATTACHMENT 1

Harvest of Napa
2449 N. 2nd Street
Napa, CA 94559

August 16, 2021

Mayor Scott Sedgley
Napa City Council
955 School Street
Napa, CA 94559

Mayor Sedgley, Vice Mayor Alessio, Napa City Councilors,

Thank you for the opportunity to provide public comment on non-agendized items.

My name is Lauren Niehaus, Director of Government Relations for Harvest of Napa located at 2449 2nd St. I have spoken to you previously, and again thank you for bringing forth the discussion regarding All Access Cannabis in Napa.

Harvest of Napa was the first Medical Cannabis operator in Napa and we look forward to a long and sustainable relationship with Napa residents and tourists, as well as with this City Council.

It has come to our attention that there may be illicit sales happening inside of City limits. This is entirely unacceptable, and illegal, and we are hopeful that the compliant operators will be recognized by this Council in the decision to bring forth updates to the Napa Cannabis Ordinance. Bringing legal, All Access Cannabis sales to the city is the number one way to combat illicit operators from entering and disrupting this market. Harvest of Napa welcomes each of you to visit our medical dispensary in order to observe a compliant, well-run medical cannabis dispensary.

I respectfully request your prioritization in bringing All Access Cannabis to the Council agenda at the earliest possible opportunity.

I appreciate the support of this Council and make myself available to Council, and Staff, to provide any input that might be helpful in drafting an ordinance for the people of Napa.

Thank you,



Lauren Niehaus
Director of Government Relations
Harvest Health & Recreation Inc.

ATTACHMENT 2

SUPPLEMENTAL REPORTS & COMMUNICATIONS
Office of the City Clerk

City Council of the City of Napa
Regular Meeting
August 17, 2021

FOR THE CITY COUNCIL OF THE CITY OF NAPA:

EVENING SESSION:

SUBMITTED PRIOR TO THE COUNCIL MEETING

13. PUBLIC HEARINGS/APPEALS:

13.A. Ace & Vine Card Room 24 Hour Operation

- PowerPoint Presentation by City Staff.
- 1) Email from Reed Onate received on August 12, 2021.
- 2) Email and letter from Kerry Ahearn, Aldea Chief Executive Officer, received on August 13, 2021.
- 3) Email from Monica Silva received on August 16, 2021.
- 4) Email from Stuart Goldie received on August 16, 2021.
- 5) Email from Alan Charles Dell'Ario received on August 16, 2021.
- 6) Email from Robert Silva received on August 16, 2021.
- 7) Email from Ellen Pinto received on August 16, 2021.
- 8) Email with attachment from Nicole Angrisani from CostaLaw received on August 16, 2021.
- 9) Email from Skip Keyser received on August 16, 2021.
- 10) Email from Timothy Martin received on August 16, 2021.
- 11) Email from Garrett Boles received on August 17, 2021.
- 12) Email from Michael LeBlanc received on August 17, 2021 containing the following letters of support from:
 1. Marco A. Rendon
 2. Belle DeHippo
 3. Julio Deharo
 4. Johnny Wilson
 5. Tom Walters
 6. Nicholas French
 7. Jeff Woo
 8. Andrew Ehlow
 9. Roland Dario
 10. Gelene Sharpen
 11. Macey Horne
 12. Jaime Roscon
 13. Jordan E. White
 14. Dennis Ludoy
 15. Robert Valdez
 16. Jorge Curmera
 17. Andrew Wells
 18. Josue Trujillo
 19. Lumael Gonzalez
 20. Daniel Lopez
 21. Nicholas Lenz
 22. Wilfred Brucker
 23. Alan Culbert
 24. John Patterson
 25. Justin Moon
 26. Daisey Quintero
 27. Miguel Plancarte

28. Juan Lopez
29. Omar Alcantar
30. Ashlin E. Pittman
31. Mike Deleng
32. Kevin Albritton
33. Manuel De La Pena
34. Garrett Lyon
35. Summer Vener
36. Nick Orsi III
37. Ryan Russell
38. Myles McGinnis
39. Rudolph Villegas
40. Raymond Neville
41. Ariana Ng
42. Dan Jackson
43. Tyler Hatter
44. Chris Sarzll
45. Don Smith
46. John Clemons
47. Michael Galyen
48. Joel Horazy
49. Ryan Searles
50. Joe Park
51. Ashley Lagrimas
52. Stephen Evans
53. Veravann Sun
54. Adam Hernandez
55. Devin Johnson
56. Kurtis Blueford
57. Ben Mori
58. Chelsey Ginter
59. Brittany Hudson
60. Michael Fjermestel
61. Mollie Poole
62. Maison Poole
63. Ammon Norstrom
64. Frank Eose
65. Kendra Ceron
66. Andrea McGoldrick
67. Carlos Navarro
68. Mark Pickens
69. Sam Jepsen
70. Oscar Gutierrez
71. Cotton Fisher
72. Steve Amery
73. Victor Caballos
74. Cory Walter

SUBMITTED DURING OR AFTER THE COUNCIL MEETING

13. PUBLIC COMMENT:

- 1) Email from Elsa Vare and Milton Gaines received on August 17, 2021.

13. PUBLIC HEARINGS/APPEALS:

13.A. Ace & Vine Card Room 24 Hour Operation

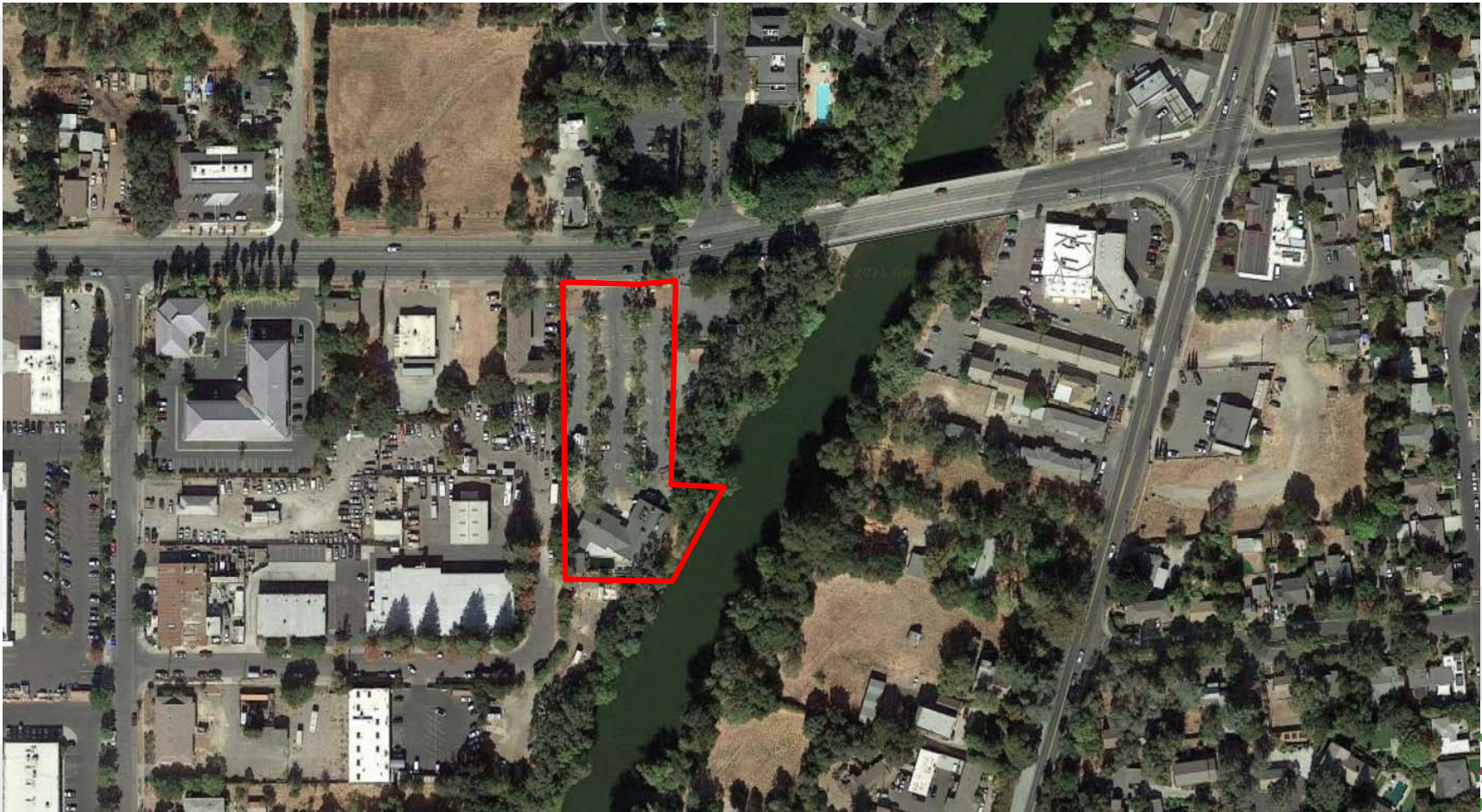
- 1) Email from Eric Smaldino received on August 17, 2021.



Ace & Vine Card Room 24 Hour Operation Use Permit

August 17, 2021

Project Site – 505 Lincoln Avenue



Background

June, 2020: City Council adopted ordinance amending Napa Municipal Code authorizing card room as conditionally permitted use in Community Commercial District.

Council also adopted resolution approving a Use Permit to operate a card room at 505 Lincoln Avenue.

The application identified the intent to operate 24 hours a day. However, in granting the Use Permit for the card room, the Council elected to include a condition limiting the card room's hours to:



Background

The application identified intent to operate 24 hours a day.

However, the Council elected to include a condition limiting the card room's hours to:

(a) 8:00 a.m. Monday and 2:00 a.m. Tuesday, (b) 8:00 a.m. Tuesday and 2:00 a.m. Wednesday, (c) 8:00 a.m. Wednesday and 2:00 a.m. Thursday, (d) 8:00 a.m. Thursday and 4:00 a.m. Friday, (e) 8:00 a.m. Friday and 4:00 a.m. Saturday, (f) 8:00 a.m. Saturday and 4:00 a.m. Sunday, and (g)(1) 8:00 a.m. Sunday and 2:00 a.m. Monday (except that, if the Monday is a holiday [as defined by California Government Code Section 6700], (g)(2) 8:00 a.m. Sunday and 4:00 a.m. Monday)



Use Permit

Applicant requests Use Permit to operate 24 hours a day.



Final Action by City Council:

Adopt a resolution approving a Use Permit expanding the operating hours of the card room at 505 Lincoln Avenue to 24 hours a day and determining that the actions authorized by this resolution are exempt from CEQA.





The End

From: [Reed Oñate](#)
Sent: Thursday, August 12, 2021 9:59 PM
To: [Tiffany Carranza](#)
Cc: [Sabrina Wolfson](#)
Subject: Aug. 17 Council Hearing, Item 13.A, Ace & Vine

[EXTERNAL]

City Council
c/o Tiffany Carranza
City of Napa City Hall

Dear Honorable Mayor Sedgley & Councilmembers:

I am writing as a member of the public and not in my role as planning commissioner concerning the Ace & Vine proposal to expand their operations to 24-hour. I live across the street from the card club and have comments I would like to share with you.

Their business has failed to meet their promises made in the original application. I attended and spoke as a citizen when the card club was first presented to the Planning Commission. While I was encouraged by the investment in the old Compadres building, I was rightfully concerned about an operation with extended hours and its impact on the homes within earshot of the property. Promises of no noise issues and security guards roaming the parking lot have not been met. These few blocks of Lincoln Avenue between Silverado Trail and Soscol have a Wal Mart, old apartment buildings, single family homes, light industrial, offices, and the Riverpoint Cottages resort. At various times, and especially around 1:30-2:30 AM at night, this neighborhood has to endure tipsy and drunk drivers racing out the parking lot, people being loud, and at times getting into fights in the parking lot. I have noticed increased trash, and when the parking lot is full the employees and patrons park across the street. The promises of an attractive newly landscaped street frontage never came to fruition, they added bark and the same tufts of grass species through the whole area of new planting.


I would like to make some suggestions for your consideration to help the Card Club be a better neighbor, some of which I mentioned at the original commission hearing.

- A masonry wall along Lincoln Avenue to help keep the party noise in the compound (with a nicely designed wall sign!),
- speed bumps in the parking lot help stop people from racing around in the lot,
- clear exterior noise hours when speakers should be completely shut off,
- Per the staff report, they have been open approx. 6 months, and have had about five police calls, so does that mean ten police calls in a year are acceptable?; they should be subject to clear thresholds that if the police issues increase beyond a certain range, the card room would be required to contribute toward the payment of an additional police officer to focus on this portion of Lincoln Avenue from Wall Mart to the Card Room,
- a detailed on-site security plan that includes a security guards presence in the parking lot, especially when the liquor serving ends; and lastly,
- some well thought out attractive landscaping at the street frontage.

I see that other neighbors have written to the council to share some similar concerns of noise, cases of DUI crashes from patrons, and how gamblers and drunks can stretch police resources thin. If the Card Club wants to make more money via longer hours, it's time for them to prove their promises of being a good neighbor.

Best regard,

R. Reed Oñate



Napa, CA 94558

From: [Kerry Ahearn](#)
Sent: Friday, August 13, 2021 11:57 AM
To: [Clerk](#)
Subject: Ace & Vine
Attachments: Letter to Napa City Council 8.13.21 (002).pdf

You don't often get email from kahearn@aldeainc.org. [Learn why this is important](#)

[EXTERNAL]

Dear City of Napa Clerk,
Please see attached letter regarding Ace & Vine.
Thank you,
Kerry

Kerry Ahearn, LCSW
Chief Executive Officer
Pronouns (She\Her\Hers)

[Aldea](#) \ 2310 First Street \ Napa, CA 94558
t (707) 255-1855 \ c (530) 720-8325

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August 13, 2021

City Council
City of Napa
955 School Street
Napa, California 94559

Dear Napa City Officials,

My name is Kerry Ahearn, the CEO of Aldea Children & Family Services, writing in support of Ace & Vine. This is a great opportunity for Napa to have a family friendly restaurant with a card room for adult entertainment.

We have met with Mike LeBlanc who has expressed interest in contributing to the community through nonprofit support. At Aldea we rely on business partners for financial support to deliver crucial services to the residents of Napa. We have lost critical funding from the Napa Valley Vintners which had supported the only Napa County drug and alcohol program for teens. We need to find new corporate partners to financially contribute, and Mike LeBlanc has stepped up to help.

We have a deep understanding of the effects of addiction of all kinds whether alcohol, drugs, or gambling. We also recognize that the majority of the population is responsible when partaking in these activities. We were impressed with Mike LeBlanc's security plan and community engagement to ensure this new business will be plugged into the Napa scene and our traditions of supporting each other.

We support this new business in Napa.

Respectfully,

Kerry Ahearn

Kerry Ahearn, LCSW
Chief Executive Officer

From: [Monica Silva](#)
Sent: Monday, August 16, 2021 9:05 AM
To: [Clerk](#)
Subject: Re: Special and Regular Meeting Agendas: City Council of the City of Napa and Board of Commissioners of the Housing Authority of the City of Napa 8/17/2021
Attachments: Dad's Damaged Truck.jpg; Drunk Guy's Truck.jpg; Scan_0179.pdf

You don't often get email from monica@altamura.com. [Learn why this is important](#)

[EXTERNAL]

I would love for this input to be included when discussing the Ace & Vine proposal to be open 24 hours.

In March they had a patron (or possibly an employee) named Christopher Penfield crash into my father's truck in Alta Heights, causing \$16K worth of damage, nearly 2 hours past their posted closing time. The truck was hit so hard that it was pushed 20 feet down the hill into a neighbor's vehicle. Their bedroom window was 15 feet from where this took place, so luckily it wasn't catastrophic, and my parents weren't hurt.

The driver was arrested for DUI and told the officers he had been at Ace & Vine. The officers told my parents that they weren't surprised, as the business was already a problem for them (and in reality, barely open at this point).

A letter was sent to the two owners detailing the accident (as well as a copy of the police report). Evidently they couldn't be bothered to at the very least apologize or take any accountability, since they haven't responded. Which is appalling given that they are single-handedly responsible for this man to wind up in my parent's front yard, black-out drunk, at 3:30 in the morning.

This is a business already showing extremely poor judgment and zero integrity. Neither owner lives here, they have no ties to Napa other than their card room, and they've shown they have no interest in community safety or interest in operating a responsible business.

This would be a massive fail to approve this change.

Monica Silva
Altamura Winery

PO Box 3209
1700 Wooden Valley Road
Napa, CA 94558
Tel: 707 253 2000
www.altamura.com

On Thu, Aug 12, 2021 at 2:35 PM Clerk <clerk@cityofnapa.org> wrote:

Sent via BCC (blind copied) to Mayor and Councilmembers, City Staff, and Members of the Public who have requested to receive notification of posted City Council Meeting agendas.

Follow this link to access the special and regular meeting agendas for August 17, 2021:

[City Council of the City of Napa Regular Meeting](#)

[Board of Commissioners of the Housing Authority of the City of Napa Special Meeting](#)

Thank you,

Carlyce Banayat

Imaging Clerk

City Clerk's Office, City of Napa
955 School Street, Napa, CA 94559

Phone (707) 257-9503

Email cbanayat@cityofnapa.org

Website www.cityofnapa.org



**Visit our website for
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From: [Mary Luros](#)
Sent: Monday, August 16, 2021 11:34 AM
To: [Clerk](#)
Subject: Fwd: Card room

Begin forwarded message:

From: Stuart Goldie [REDACTED]
Subject: Card room
Date: August 16, 2021 at 7:22:19 AM PDT
To: Mary Luros <mluros@cityofnapa.org>

[EXTERNAL]

Hi Mary,
I hope you guys are doing well.
My humble napa resident opinion,
I don't think a 24 hour gaming room is a good idea for Napa.
Cheers

Stuart Goldie

From: [Mary Luros](#)
Sent: Monday, August 16, 2021 11:48 AM
To: [Clerk](#)
Subject: Fwd: Lincoln Ave. Card Room

Begin forwarded message:

From: "Alan Charles Dell'Ario" [REDACTED]
Subject: Lincoln Ave. Card Room
Date: August 16, 2021 at 11:42:22 AM PDT
To: Mary Luros <mluros@cityofnapa.org>

[EXTERNAL]

Dear Ms. Luros,

I oppose extending the operation of the card room on Lincoln Ave. to 24/7. Nothing else in the City is open at that hour. The former tenants did just fine operating during normal business hours.

~Alan Charles Dell'Ario

Alan Charles Dell'Ario
2019 California Lawyer Attorney of the Year
Certified Specialist, Appellate Law
State Bar of California Board of Legal Specialization
[REDACTED]
Napa, California 94559
[REDACTED]

From: [Robert Silva](#)
Sent: Monday, August 16, 2021 12:41 PM
To: [Clerk](#)
Subject: Ace & Vine

Categories: Unverified Contact

You don't often get email from [REDACTED] [Learn why this is important](#)

[EXTERNAL]

Greetings,

I am contacting you today regarding the proposal to allow Ace and Vine Casino to offer 24-hour gaming. I would like to express my sincere disapproval of this proposal.

Casinos do not foster economic growth in the communities they inhabit. That is not my personal opinion but rather, a statement of fact that is well documented.

The mere presence of Ace & Vine has affected my family directly. Not long after they opened, a patron left the facility after being over-served. It is noteworthy to mention, this occurred well after normal operating hours. That individual ended up crashing their car into my parent's vehicle parked on the street causing approximately \$16k in damage. The individual called the police himself and was arrested shortly after. However, we attempted to contact Ace & Vine regarding the incident, but the owners never responded, not even to apologize.

This proposal is likely the result of a failing business plan and an attempt to increase profits by any means necessary. It would be reckless and irresponsible to allow this to happen. Napa does not need an all-night casino.

Thank you,
Robert Silva

From: [Mary Luros](#)
Sent: Monday, August 16, 2021 1:36 PM
To: [Clerk](#)
Subject: Fwd: Ace & Vine's Request

Mary Luros

Begin forwarded message:

From: "Ellen S. Pinto" [REDACTED]
Date: August 16, 2021 at 1:30:12 PM PDT
To: Mary Luros <mluros@cityofnapa.org>
Subject: Ace & Vine's Request

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[EXTERNAL]

Dear Mary Luros,

I am writing to you to request that you vote NO on the Napa card room's request to be open 24/7.

1. They are coming back with this request before their one year operating anniversary.
2. The timing of the request does not give the City Council enough time to see what the consequences will be.
3. Napa does not need something like this 24/7.
4. Just because they are not making as much money as they'd like is not a good enough reason to grant their request.

Thank you,

Ellen S. Pinto

From: [Nicole Angrisani](#)
Sent: Monday, August 16, 2021 3:07 PM
To: [Clerk](#)
Cc: [Joseph Costa](#); [Darius Vosylius](#)
Subject: BVK Gaming vs Long - Written Submission to Clerk
Attachments: Written Submission of BVK Gaming, Inc. Re 8.17.21 Regular Meeting Agenda for the City Council of the City of Napa, Agenda Item 13, 630 Evening Session.pdf

You don't often get email from nicole@costalaw.com. [Learn why this is important](#)

[EXTERNAL]

In the BVK Gaming vs. Long matter, attached please find the "Written Submissions of BVK Gaming, Inc., Regarding Tuesday, August 17, 2021 Regular Meeting Agenda for the City Council of the City of Napa, Agenda Item 13, 6:30 Evening Session."

Sincerely
Nicole Angrisani
Paralegal

CostaLaw
trial entertainment & business attorneys
17383 Sunset Boulevard
Suite A-350
Pacific Palisades, California 90272

CostaLaw | trial business & entertainment attorneys

17383 Sunset Boulevard, Suite A-350, Pacific Palisades, CA 90272

tel 310.394.6611 fax 310.394.6612

A professional corporation operating as the Law Offices of Joseph P. Costa, Inc.

August 16, 2021

Via E-Mail Delivery to Clerk (clerk@cityofnapa.org)
City of Napa City Council
955 School Street
Napa, California 94559

Re: Written Submission of BVK Gaming, Inc., Regarding Tuesday, August 17, 2021 Regular Meeting Agenda for the City Council of the City of Napa, Agenda Item 13, 6:30 Evening Session.

To the Respected City Council of the City of Napa:

I represent BVK Gaming, Inc. ("BVK"), which currently is in litigation with Tim Long ("Long") and Polvora, Inc. ("Polvora") regarding the cardroom license for Hemphill's Lounge and Cardroom (the "Hemphill's License"). Polvora is currently utilizing this license for the operation of its Ace & Vine cardroom, which is the subject of the use variance sought by Polvora on Agenda Item 13 on August 17, 2021.

BVK's case is scheduled to go to trial against Polvora in Napa on October 12, 2021 and in this action, BVK is asking the Court to award specific performance in BVK's favor and to specifically receive an order from the Napa Valley Superior Court that BVK is legally entitled to the Hemphill's License. BVK respectfully requests that the matter be extended for a brief period of time so that the case may be judicially heard prior to granting any additional use permits for Polvora's Ace & Vine Cardroom. A copy of BVK's lawsuit against Polvora and Tim Long is attached as Attachment "A" to this letter. Incidentally, Tim Long, who was originally set to partner with Michael LeBlanc in owning Polvora, is the subject of a criminal indictment for fraud on the public, a copy of which is attached as Attachment "B" to this letter.

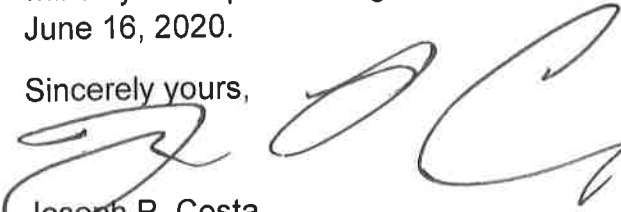
In addition, on March 17, 2021, a lawsuit was filed against the majority owner of petitioner Polvora, Inc., Michael LeBlanc, by his partner in a different cardroom named the 500 Club. In this lawsuit, the plaintiff Richard Barclay claims that Mr. LeBlanc embezzled hundreds of thousands of dollars from the 500 Club to complete the construction of Ace & Vine. As part of these claims, Mr. Barclay seeks a determination in the Fifth Cause of Action that he is a lawful owner of Polvora, and that he receive the proceeds from Ace & Vine. A true and correct copy of Barclay's lawsuit against LeBlanc is attached as Attachment "C" to this letter. Michael LeBlanc has also filed a lawsuit

involving his failure to get along with Mr. Barclay in the 500 Cardroom, and requests that the Court appoint a provisional director to remedy a stalemate in the decision making abilities of such cardroom entity. Attached as Attachment "D" to this letter is a true and correct copy of such second lawsuit involving LeBlanc and the 500 Club cardroom (without exhibits).

On or around June 16, 2020, Polvora requested a variance from the Napa Valley City Council to allow it to increase the amount of gaming tables that it places in its facilities. As a condition for this request, the City Council expressly conditioned that Polvora only be allowed to operate the Ace & Vine cardroom between the hours of 8:00 a.m. and 2:00 a.m. Monday through Friday, and 8:00 a.m. through 4:00 a.m. on Friday through Sunday. See Item 7 to Resolution No. R2020-088, which is attached to Item 13 on the Agenda. Polvora now asks that this condition be undone as part of its current request.

BVK respectfully requests that the City Council continue this hearing until the Courts can decide (1) if BVK is the lawful owner of the license that Polvora currently uses to operate Ace & Vine. The trial in this matter is scheduled for October 12, 2021. In the proposed resolution to allow the Ace & Vine cardroom to operate twenty-four hours, the city has imposed numerous conditions to the sought after use permit; none of these conditions can be honored by Polvora if the Court finds that BVK is the actual owner of the license being used at Ace & Vine. Similarly, if Mr. Barclay wins his claims against Michael LeBlanc for converting corporate funds to build the Ace & Vine cardroom, and is subsequently determined to be a majority shareholder of Polvora, then too much uncertainty exists as to whether Polvora will likewise honor any of the conditions imposed by the City Council on it. All of which points to the logical, conservative request that no further decisions be made regarding the use and operation of the cardroom license for Ace & Vine until such time that the Courts determine (1) if BVK owns the underlying license to operate a cardroom under the Ace & Vine license; and (2) whether Mike LeBlanc's alleged conversion of funds from the 500 Club cardroom will provide Mr. Barclay a controlling ownership interest in Polvora. For these reasons, BVK respectfully requests that these issues be tabled until such time that the Courts can adjudicate these claims. The result in granting BVK's request will serve no real prejudice to Polvora, as it will only be required to agree to the very same operational hours that it agreed to on June 16, 2020.

Sincerely yours,



Joseph P. Costa

Cc: Mayor Scott Sedgley via personal delivery
 Vice Mayor Liz Alessio via personal delivery
 Councilmember Mary Luros via personal delivery
 Councilmember Bernie Narvaez via personal delivery
 Councilmember Beth Painter via personal delivery

ATTACHMENT “A”

FILED
3/8/2019 11:56 AM
Clerk of the Napa Superior Court
By: Caitlin Frankie, Deputy

1 Joseph P. Costa (Bar No. 130131)
2 Darius Anthony Vosylius (Bar No. 175030)
3 COSTALAW
4 17383 Sunset Boulevard, Suite A-350
5 Pacific Palisades, California 90272
6 Telephone No. 310-394-6611; Fax 310-394-6612
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9 Attorneys for Plaintiff BVK Gaming, Inc.

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF NAPA**

BVK GAMING, INC., a California Corporation,

Case No. 17CV001155

Plaintiff,

vs.

TIMOTHY J. LONG, an individual; GABRIEL
PATTEE, an individual; MICHAEL PAUL LEBLANC,
an individual; POLVORA, INC., a California
Corporation; and DOES 1 through 50, inclusive,

Defendants.

SECOND AMENDED COMPLAINT FOR:

1. BREACH OF CONTRACT/SPECIFIC PERFORMANCE;
2. DECLARATORY RELIEF;
3. BREACH OF COVENENT OF GOOD FAITH AND FAIR DEALING;
4. INTENTIONAL INTERFERENCE WITH CONTRACT

DEMAND FOR JURY TRIAL

Plaintiff BVK Gaming, Inc. alleges as follows:

THE PARTIES

1. BVK Gaming, Inc. ("Plaintiff" or "BVK") is a California corporation with its principal place of business in Napa County, California.

1 2. Plaintiff is informed and believes and alleges thereon that Defendant Timothy J.
2 Long ("Long") is an individual residing in Napa County, California. Plaintiff is further informed
3 and believes and alleges thereon that Long was the successor in interest to the estate of Billy
4 Long, also residing in Napa, California.

6 3. Plaintiff is informed and believes and alleges thereon that defendant Polvora,
7 Inc. ("Polvora") is a California corporation (Entity Number C3759289) located in Placentia
8 (Orange County) California, but doing business in Napa County, California. Plaintiff is further
9 informed and believes and alleges thereon that Polvora is owned by defendants Gabriel "Gabe"
10 Pattee and Michael LeBlanc. Plaintiff is informed and believes and alleges thereon that LeBlanc
11 owns 70% of the shares in Polvora, while Pattee owns 30%.

14 4. Plaintiff is informed and believes and alleges thereon that defendant Gabriel
15 "Gabe" Pattee ("Pattee") is an individual residing in San Mateo County, California and is
16 Polvora's President. Besides Polvora, Plaintiff is informed and believes that Pattee is affiliated
17 and/or owns another gaming company called GP Gaming, LLC.

19 5. Plaintiff is informed and believes and alleges thereon that defendant Michael
20 Paul LeBlanc ("LeBlanc") is an individual residing in Orange County, California and is Polvora's
21 Chief Executive Officer.

23 6. Plaintiff is further informed and believes that besides Polvora, LeBlanc is
24 affiliated and/or is an owner of several other gaming corporations, including Certified Players,
25 Inc., K& M Casinos, Inc., LEB Holdings, Inc., L.E. Gaming, Inc. and Rhino Gaming, Inc. Mark
26 English is also listed as a director for some of these entities, and Mr. English is also listed as the
27 Secretary and Chief Financial Officer for Polvora.
28

9. The true names and capacities, whether individual, corporate, associate or otherwise, of Defendants DOES 1 through 50, inclusive, are presently unknown to Plaintiff, who therefore sues these Defendants by such fictitious names. Plaintiff is informed and believes and thereon alleges that each of the DOE Defendants was and is either intentionally, negligently, or in some other manner, the cause or contributing cause of, or otherwise responsible for, the acts alleged herein. Plaintiff will amend this Second Amended Complaint to allege the true names and capacities of each DOE Defendant, together with such allegations as may be appropriate, when their names have been ascertained.

10. This Court has subject matter jurisdiction over this controversy as a court of general jurisdiction within the City and County of Napa. Venue in this Court is proper pursuant to Code of Civil Procedure §395.5, as defendant Long resides and has his principal place of business in the City and County of Napa, California, the contract was to be performed, and concerns property located in Napa. The actions taken by the Polvora Defendants identified

1 herein each pertain to the attempted entrance into a contract in Napa County as well as the
2 interference with a contract located in Napa County.

3
4 **GENERAL ALLEGATIONS**

5 **Plaintiff Enters Into A Valid Agreement With Long Re: Hemphill's Card Room**

6 11. At all times mentioned herein, Hemphill's Card Room ("Hemphill's"), was a
7 gaming establishment ("Cardroom") licensed by the California Gaming Control Commission
8 (hereinafter "Commission") and subject to regulation by the California Bureau of Gaming
9 Control (hereinafter "Bureau").
10

11 12. On or about November 15, 2007, Long agreed on behalf of the Estate of Billy
12 Long ("Estate") (his father) to sell Hemphill's and to relinquish its license in favor of Plaintiff, in
13 a form subject to approval by the Commission, as memorialized in an Asset Purchase
14 Agreement attached hereto as **Exhibit "A"** (the "BVK Purchase Agreement").
15

16 13. The BVK Purchase Agreement provided that Tim Long was the Executor of the
17 Estate of Billy Long ("Estate"). Long represented in the BVK Purchase Agreement that the
18 California Gaming Commission had licensed the Cardroom to the Estate, that Plaintiff would
19 deposit \$75,000 towards the purchase, would pay an additional \$675,000 in cash and a note
20 after the agreement was approved by the Commission and the license was relinquished in favor
21 of Plaintiff.
22

23 14. As set forth in the BVK Purchase Agreement, Long, as the seller, warranted good
24 and marketable title to all Purchased Assets, including the gaming license to operate the
25 Cardroom.
26
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1 15. As a condition precedent to the performance of the obligations of the
2 Plaintiff/Buyer, Long as the seller was required to obtain regulatory approval of the BVK
3 Purchase Agreement and all transactions contemplated therein, by both state and local
4 authorities. As a further condition precedent, Long agreed that no action or proceeding should
5 have been instituted by any governmental agency to challenge the validity of transactions
6 contemplated thereby. As a further condition precedent to performance by Plaintiff/Buyer, all
7 the representations made by Long as the Seller had to have been true. Long as the Seller
8 promised to "relinquish all Licenses solely in favor of Buyers application" and to "fully
9 cooperate" with Buyer in connection with such applications. As a condition precedent to
10 Plaintiff's duty to perform, Commission approval for the license had to be obtained.
11

12 16. Plaintiff is informed and believes and alleges thereon that approximately one
13 month after the execution of the BVK Purchase Agreement, the Commission suspended
14 Hemphill's license because Long could not obtain the necessary approval for it to be transferred
15 to his name, a necessary condition to performance by Plaintiff. Plaintiff applied for approval of
16 its license on or about March 17, 2007, but such application was rejected by the Bureau based
17 on the fact the Long/Hemphill license was not in effect. Long did not thereafter return the
18 \$75,000 to Plaintiff, but communicated that he would continue in his efforts to obtain
19 Commission approval for his licensure and would keep Plaintiff informed.
20

21 17. Plaintiff is informed and believes that the Bureau conducted several lengthy
22 investigations spanning several years regarding Long's financial history as well as Long's
23 character. This is not unusual. Plaintiff is informed and believes and alleges thereon that
24 background investigations by the Bureau can take a significant amount of time.
25
26
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Prior Litigation Between Plaintiff and Long

18. In 2011, Long suffered a setback in his attempts to move the application through the Commission process. Believing it was BVK's fault that he could not get the license back into compliance, Long filed a suit against Plaintiff for breach of the BVK Purchase Agreement alleging Plaintiff and its principal Brian Altizer were responsible for the Commission's rejection of his application to become licensed.

19. BVK counterclaimed for "lost profits" alleging the delays in licensure were the fault of Long. BVK only sought to recover "lost profits" that were incurred for a few years that were caused by Long's delay in obtaining regulatory approval. BVK's counter-claim did not seek specific performance and/or declaratory relief. Nor did Plaintiff elect to seek a rescission of the BVK Purchase Agreement.

20. In June 2012, the Attorney General of the State of California filed a Statement of Issues against Long on behalf of the Bureau of Gaming Control, alleging *inter alia*, his unsuitability for issuance of a gaming license.

21. In August 2013, Long lost his suit against BVK and Altizer. Judgment was entered in BVK and Altizer's favor.

22. Long has not yet repaid a judgment that Altizer holds against Long.

The BVK Purchase Agreement Was Never Repudiated Or Rescinded

23. At no point in time did Plaintiff ever repudiate or rescind the BVK Purchase Agreement. For instance, Plaintiff did not request Long to return the \$75,000 deposit because Plaintiff wanted to ensure that in the event Long ever managed to get the Hemphill's license reinstated, he would be contractually bound to relinquish it in favor of Plaintiff, as required by the

1 BVK Purchase Agreement. Incidentally, there is no "time of the essence" language in the BVK
2 Purchase Agreement because Plaintiff anticipated that the acquisition of the Hemphill's license
3 would take a significant period of time.
4

5 24. The BVK Purchase Agreement specifies that BVK "shall have one year from the
6 approval of this Agreement and the transactions contemplated herein by the CGCC in which to
7 obtain the necessary licenses and approval from the Division of Gambling Control, the CGCC
8 and the City of Napa." The BVK Purchase Agreement has not yet been approved by the
9 Commission because of Defendants' wrongful conduct, as alleged herein.
10

11 25. Plaintiff is informed and believes, and alleges thereon that sometime in 2014,
12 Long finally obtained approval from the Bureau for re-institution of the Long license. However,
13 Long failed to notify Plaintiff about this development, something which Plaintiff discovered a
14 significant period of time later. After Plaintiff learned of the reinstatement of Long's license, in
15 2016 Plaintiff re-submitted an application to the Commission to purchase the Hemphill's license
16 and tendered \$22,800 in application fees to do so.
17
18

19 **On July 6, 2017, Long Secretly Enters Into The Operative Agreement With The Polvora**
20 **Defendants For A Higher Sale Price – This Was A Breach Of The BVK Purchase Agreement**
21

22 26. Rather than informing Plaintiff that he finally obtained approval from the
23 Bureau, Long instead sought a new buyer for the Hemphill's assets (despite the fact that Long
24 was still contractually bound to perform under the BVK Purchase Agreement) and he entered
25 into a new and secret purchase agreement with the Polvora Defendants for a significantly
26 higher purchase price.
27
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1 27. Neither the Polvora Defendants nor Long contacted Plaintiff to inquire about the
2 status of the BVK Purchase Agreement and/or whether it was repudiated and/or rescinded.

3 28. At all relevant times alleged herein, the Polvora Defendants had knowledge of
4 the BVK Purchase Agreement regarding the Hemphill's license, and associated application to
5 the Bureau.
6

7 29. The operative asset purchase agreement between Long and Polvora regarding
8 Hemphill's Card room was entered into and submitted to the Bureau on **July 6, 2017**. This was
9 confirmed by a declaration submitted by Gabriel "Gabe" Pattee in this action.
10

11 30. More specifically, on May 18, 2018, Gabriel "Gabe" Pattee submitted a
12 declaration on behalf of the Polvora Defendants in support of the Polvora Defendants'
13 opposition to Plaintiff's motion for a preliminary injunction. In his sworn declaration, Pattee
14 made the following representations to the Court:
15

16 ¶17: "On July 6, 2017, Mr. Long and Polvora entered into a Restated Asset
17 Purchase and Sale Agreement (the "Restated Agreement"). . . A copy of the Restated
18 Agreement was provided to Bureau [sic] for its review and approval."
19

20 ¶18: "Under the Restated Agreement, Polvora agreed to purchase the
21 Business from Mr. Long in exchange for \$900,000 (the "Purchase Price"). As of July 6,
22 2017, Polvora made a refundable deposit of \$215,000 to Mr. Long to be applied towards
23 the Purchase Price. Polvora must pay the balance of the Purchase Price at closing by (i)
24 executing and delivering a promissory note in the principal amount of \$650,000 payable
25 to Mr. Long over a period of sixty (60) months; and (ii) delivering a \$35,000 bank
26 cashier's check at closing. . ."
27
28

¶9: "In approximately January 2017, in connection with the purchase of the Business, Polvora, Mr. LeBlanc and I submitted to the Bureau an application for a state gambling license to operate the Business. Mr. English filed an application for a state gambling license on September 26, 2017. An updated application for licensure for Polvora, Mr. LeBlanc, Mr. English and I was filed with the Bureau on March 2, 2018."

¶10. "On December 13, 2017, the Bureau sent a letter to Mr. Long's Designated Agent, Jarhett Blonien, and to Brian Altizer and Von Altizer, counsel for BVK Gaming, Inc. . . This letter stated that the Bureau 'ceased its review' of a prior Asset Purchase Agreement between BVK and Mr. Long, dated October 1, 2007, for the purchase of Hemphill's Lounge and Card room. This letter also provided notice of the Bureau's review of Polvora's Restated Agreement to purchase the Business. . ."

¶11. "After BVK received this letter, on February 23, 2018, BVK served a subpoena upon Polvora requesting production of information relating to its purchase of the Business. . ."

31. Plaintiff's application to approve the BVK Purchase Agreement was submitted to the Bureau and Commission before the applications of the Polvora Defendants.

Plaintiff Continued With Its Efforts To Have The BVK Purchase Agreement Approved Because

It Was Unaware That Long Had Entered Into The Secret Operative Agreement With The

Polvora Defendants

32. While Long was secretly entering into the operative competing asset purchase agreements with the Polvora Defendants in July 2017, Plaintiff continued with its efforts to have the BVK Purchase Agreement approved by the Bureau.

1 33. For instance, the Bureau accepted Plaintiff's applications and cashed Plaintiff's
2 check. In September 2017, Plaintiff's representative met with an Assistant Bureau Chief to
3 discuss the BVK Purchase Agreement and reiterated that the BVK Agreement was still a valid
4 contract.

6 34. In November 2017, another Bureau Agent informed Plaintiff that the Bureau's
7 review of the BVK Purchase Agreement was still pending.

9 35. Meanwhile, as late as February 5, 2018, the Bureau asked Plaintiff if it wanted
10 the Bureau to "continue its review of the [BVK] APA and Applications." Plaintiff responded in
11 the affirmative, indicating that it was Plaintiff's "intent that the Bureau continue its review of
12 the [BVK] APA and Applications."

13
14 **On October 30, 2017, The Polvora Defendants Again Induce Long To Breach The BVK Purchase**
15 **Agreement When Defendants' Representative (Jarhett Blonien) Sent A Letter To The Bureau**
16 **Requesting That It Cease Its Review Of The BVK Purchase Agreement**

17
18 36. On or about October 30, 2017, without the knowledge or consent of Plaintiff,
19 Defendants' representative (Jarhett Blonien) submitted a letter to the Bureau falsely informing
20 the Bureau that the BVK Purchase Agreement had been rescinded, knowing that it was not, and
21 requested that the Bureau cease its review of the BVK Purchase Agreement with the objective
22 of depriving Plaintiff of its rights to the Hemphill's license guaranteed by the BVK Purchase
23 Agreement.

24
25 37. Plaintiff contends that Long breached the BVK Purchase Agreement on or about
26 October 30, 2017, when Blonien sent this letter to the Bureau. Despite Plaintiff's efforts
27 (including several unsuccessful public record act requests as alleged further below), Plaintiff has
28

1 not yet seen this October 30, 2017, letter from Blonien. Nor have the Polvora Defendants
2 produced this letter, despite subpoenas being served on them back in February 2018.

3
4 38. On or about December 13, 2017, the Bureau responded to Blonien's October 30,
5 2017, letter. This was the first time that Plaintiff became aware of Polvora and the first time it
6 became aware of the operative July 6, 2017, agreement between Long and Polvora. This letter
7 also established Plaintiff's harm because of Defendants' conduct. Specifically, this December
8 13, 2017, letter stated that because of Blonien's October 2017, letter, "the Bureau has ceased
9 its review of the [BVK] APA." This is the first time that Plaintiff became aware that the
10 California regulatory agency was ceasing its review of the BVK Purchase Agreement.

11
12 **Plaintiff's Delayed Discovery And Plaintiff's Reasonable Diligence**

13
14 39. The Court previously granted a demurrer to Plaintiff's first amended complaint
15 with leave to amend, and in its ruling, stated in part as follows: "BVK has not alleged when it
16 Plaintiff first learned of Long's agreement with the Polvora Defendants. . . BVK needs to allege
17 when it discovered the Polvora agreement and its inability to make earlier discovery despite
18 reasonable diligence." To add confusion to this inquiry, on December 27, 2018, Polvora's
19 counsel provided a declaration to the Court that stated in paragraph 8 "On December 27, 2018,
20 Jarhett Blonhein, Timothy Long's designated agent, provided me with a copy of the Asset
21 Purchase and Sale Agreement between Timothy Long and Polvora, Inc., a true and correct copy
22 of which is attached to this Declaration as Exhibit K." Exhibit K purported to be an earlier
23 Agreement between Polovra and Long, and formed the basis for the Polvora Defendants to
24 argue that the claims were barred by the Statute of Limitations. However, this statement by the
25 Polvora Defendants was false in that the attached agreement submitted to the Court was an
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1 invalid, cancelled agreement. This was also the first and only time that Plaintiff was presented
2 with any copy of an agreement between Polvora and Long. Rather, the actual operative
3 agreement between the Polvora Defendants and Long is a July 6, 2017 agreement and it is
4 Long's entry into this agreement and the Polvora Defendants' and Long's resulting attempts to
5 use this 2017 Agreement to cease the Bureau's review and approval of the BVK Purchase
6 Agreement that forms the basis for Plaintiff's claims.
7

8
9 40. Plaintiff contends that the delayed discovery rule does not have to be utilized
10 because the Polvora Defendants induced Long to breach the BVK Purchase Agreement on two
11 different occasions within the statute of limitations, i.e. on July 6, 2017 (when Long and the
12 Polvora Defendants entered into the operative agreement with Long and then submitted that
13 operative agreement to the Bureau) and again on October 30, 2017, when Defendants'
14 representative Blonien wrote a letter to the Bureau asking for the first time that the Bureau
15 cease its review of the BVK Purchase Agreement.
16

17
18 41. Plaintiff was unaware of the actions of Polvora, Leblanc, and Pattee alleged
19 above or their identities as the prospective purchasers of the Hemphill's license until receiving
20 and reviewing the Bureau's letter dated December 13, 2017. Until then, Plaintiff had not been
21 damaged or suffered actual injury due to the conduct of the Polvora Defendants.
22

23 42. Plaintiff was unable to make an earlier discovery of the existence of Long's
24 agreement with the Polvora Defendants despite reasonable diligence. For instance, Polvora's
25 identity was not disclosed by Long. Nor did the Bureau disclose Polvora's identity prior to
26 December 2017. For instance, on November 2, 2017, Plaintiff's representative and Bureau staff
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1 participated in a conference call regarding the status of the sale of the Hemphill's card room.
2 The Bureau did not mention the existence of Blonien's October 30, 2017, letter.

3 43. Furthermore, Plaintiff has made at least two unsuccessful Public Records Act
4 Requests to the Bureau requesting records and correspondences "relating to the licensure of
5 Hemphill's Card room in Napa County California or Timothy Long from January 2014 to the
6 present."
7

8 44. However, to date, the Bureau has refused to provide further information about
9 Polvora's competing asset purchase agreement, including refusing to produce the October 30,
10 2017, letter from Blonien. Nor has the Bureau produced a copy of the operative 2017 asset
11 purchase agreement (or any other agreements) between Long and the Polvora Defendants.
12

13 45. The Bureau stated, in part, that "the records of the Bureau are exempt from
14 disclosure under the California Public Records Act. (Cal. Bus. & Prof. Code, §19821, subd. (c).)
15 California Business and Professions Code section 19821, subdivision (d), specifies that it [is]
16 unlawful for an official or employee of the Department to knowingly disclose or furnish records
17 or information to a person not authorized by law to receive them, except as necessary for the
18 administration of the Gambling Control Act. A review of your records request suggests no
19 applicable exception to the general exemption from disclosure set forth above. Accordingly, any
20 records that would be responsive to your request are exempt from disclosure by the terms of
21 the Public Records Act, pursuant to Government Code section 6254, subdivision (k). . ."
22

23 46. In addition, Plaintiff sought to obtain further information from the Polvora
24 Defendants through a subpoena issued in February 2018 (which was acknowledged by Gabe
25 Pattee in his declaration). However, the Polvora Defendants, as well as Blonien, refused to
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1 provide any documentation to Plaintiff, claiming either that documents did not exist and/or
2 were privileged and/or that the requested documents could be obtained from the Bureau
3 pursuant to a Public Record Act request (which is not true, as alleged above).
4

5 47. The Polvora Defendants likewise have ignored informal requests to produce the
6 October 30, 2017, letter from Blonien, along with the operative July 6, 2017 Restated Asset
7 Purchase and Sale Agreement referenced in Pattee's declaration. All of these actions by the
8 Polvora Defendants and Long amount to a deliberate attempt to prevent Plaintiff from
9 discovering the true nature of the Polvora Defendants agreement with Long and to date, and
10 despite its efforts, Plaintiff has been unable to obtain a copy of the operative July 6, 2017
11 Restated Asset Purchase and Sale Agreement.
12
13

14 The May 24, 2018 Hearing

15 48. On May 24, 2018, the Commission and Bureau held a hearing regarding Polvora's
16 request for approval of the Polvora APA. The Commission was not requested to approve the
17 BVK Purchase Agreement during the May 24, 2018, hearing. This was made clear to the
18 attendees (including Polvora's lead counsel (Robert McWhorter, Esq.) who attended this
19 hearing.
20
21

22 49. During the hearing, the Commission and Bureau made it clear that they could
23 unwind the approval of the Polvora APA if an adjudication were made in this action in favor of
24 Plaintiff. The Commission made it clear that Plaintiff could still obtain Hemphill's card room
25 license if Plaintiff was granted the remedy of specific performance by the Court and that the
26 Commission's decision was not intended to interfere with a judicial review of these claims.
27
28

(Breach of Contract/Specific Performance – Against Long)

52. A complaint for specific performance in California is authorized by Civil Code sections 3384 through 3395. Civil Code section 3384 states that "Except as otherwise provided in this Article, the specific performance of an obligation may be compelled."

22 54. Plaintiff provided adequate consideration to Long, and the BVK Purchase
23 Agreement was a just and reasonable contract.

55. Long breached the BVK Purchase Agreement by, *inter alia*, secretly entering into the operative July 6, 2017, agreement with the Polvora Defendants, submitting the July 6, 2017, agreement with Polvora to the Bureau for its approval, and then falsely informing the

1 Commission on October 30, 2017 that the BVK Purchase Agreement was rescinded and
2 requesting that the Bureau cease its review of the BVK Purchase Agreement.

3 56. Plaintiff has performed all conditions precedent set forth in the BVK Purchase
4 Agreement except for those excused by Long's breaches.

5 57. Plaintiff has been at all times since 2007 able and willing to purchase Hemphill's
6 and its license. Plaintiff remains ready and willing to perform all terms of the BVK Purchase
7 Agreement.
8

9 58. Plaintiff has no adequate remedy at law. For instance, the subject matter of the
10 agreement (i.e. the assets and license of Hemphill's Card room) is unique in its nature. In fact,
11 besides Plaintiff's license, this is the only other license of its kind in this geographic area.
12

13 59. Furthermore, Plaintiff is informed and believes and alleges thereon that Long is
14 judgment proof and that a monetary judgment against him would be an illusory remedy. For
15 instance, Plaintiff conducted a judgment debtor examination against Long on May 2018. During
16 that examination, Long confirmed that he owed money to Plaintiff's owner Brian Altizer, but
17 that he is unable to pay him.
18

19 60. Furthermore, Long was the president of a roofing company called RLRCO, Inc.
20 However, that corporate entity has been suspended by the California Secretary of State.
21 Plaintiff is informed and believes and alleges thereon that a few years ago this company had a
22 negative net worth of over \$750,000.
23

24 61. In addition, Plaintiff is informed and believes and alleges thereon that Long
25 entered into a loan with Jack and Martha Hussey in the amount of \$436,994.78 in
26 approximately June 2009. However, Plaintiff is informed and believes that Long defaulted on
27
28

1 that note, and that Jack and Marthy Hussey filed a civil action against Long on December 17,
2 2018, in this Court (Case No. 18CV001700) and that the Court issued a right to attach order on
3 February 14, 2019, after the Hussey's successfully applied for a writ of attachment.
4

5 62. As a result of the foregoing, Plaintiff seeks an adjudication that Defendant Long
6 has breached the BVK Purchase Agreement and is entitled to the equitable remedy of specific
7 performance. In addition, Plaintiff is entitled to its attorney's fees as a prevailing party as
8 further provided in the BVK Purchase Agreement. In the alternative, should this Court refuse to
9 award Specific Performance, then Plaintiff seeks damages as a result of Defendant Long's
10 breach of the BVK Purchase Agreement, in an amount to be proven at trial.
11
12

13
14 **SECOND CAUSE OF ACTION**

15 **(Declaratory Relief - Against All Defendants)**

16 63. Plaintiff incorporates by reference and repeats and realleges paragraphs 1
17 through 50 of this Second Amended Complaint as if set forth in full herein.
18

19 64. An actual controversy presently exists between Plaintiff and Defendants as to
20 their respective rights and obligations as follows:
21

22 a. Plaintiff contends, and Defendants deny, that the BVK Purchase Agreement is
23 valid and enforceable by the Plaintiff.

24 b. Plaintiff contends, and Defendants deny, that the BVK Purchase Agreement has
25 not been rescinded.
26

27 c. Plaintiff contends, and Defendants deny, that the BVK Purchase Agreement has
28 not been repudiated.

1 d. Plaintiff contends, and Defendants deny, that there exists a binding obligation on
2 the part of Long to take all necessary actions to complete the sale and relinquish his Hemphill's
3 license in favor of Plaintiff.
4

5 e. Plaintiff contends, and Defendants deny, that the BVK Purchase Agreement
6 supersedes the July 6, 2017, Restated Asset Purchase and Sale Agreement that was submitted
7 by Defendants to the Bureau.
8

9 f. Plaintiff contends, and Defendants deny, that the asset purchase agreement(s)
10 entered into between the Polvora Defendants and Long (relating to the Hemphill's license) are
11 null and void.
12

13 g. Plaintiff contends, and Defendants deny, that Plaintiff has the present right to
14 purchase Hemphill's and gain its license through relinquishment by Long of the Hemphill's
15 license pursuant to the BVK Purchase Agreement.
16

17 h. Plaintiff contends, and Defendants deny, that the Bureau is permitted to
18 continue reviewing the BVK Purchase Agreement and that there is no legal impediment
19 preventing the Bureau from approving the BVK Purchase Agreement.
20

21 65. Such relief is appropriate because Plaintiff's ability to obtain approval of the BVK
22 Purchase Agreement or license to operate Hemphill's from the California Gaming Control
23 Commission is impeded as long as Defendants deny the existence of an enforceable Agreement
24 with Plaintiff.
25

26 66. As alleged above, on May 2018, the Commission and Bureau indicated that their
27 prior approval of the Polvora APA could be unwound, pending determinations made by this
28 Court.

1 67. As a result of the acts and omissions alleged, Plaintiff proximately sustained
2 damages as set forth herein. Wherefore, Plaintiff requests the relief set forth below.
3
4

5 **THIRD CAUSE OF ACTION**

6 **(Breach of Covenant of Good Faith and Fair Dealing - Against Long)**

7 68. Plaintiff incorporates by reference and repeats and realleges paragraphs 1
8 through 50 of this Second Amended Complaint as if set forth in full herein.
9

10 69. California law implies a covenant of good faith and fair dealing in all contracts
11 between parties entered into in the State of California. That covenant imposed on each party to
12 the agreement the duty to do whatever was reasonable to accomplish the purpose of the
13 agreement, and the duty to refrain from doing anything knowingly to frustrate the
14 accomplishment of that purpose or to engage in any conduct to deprive the other party of the
15 benefits of the agreement.
16

17 70. Long's acts and omissions alleged herein also violated the covenant of good faith
18 and fair dealing in that Long unfairly interfered with Plaintiff's right to receive intended benefits
19 of the BVK Purchase Agreement. To the extent that these breaches are for actions that are
20 expressly required in the agreement between the parties, then the basis for the implied claim is
21 in the alternative to the terms of the express provision.
22

23 71. As a result of Long's breach of the implied covenant of good faith and fair
24 dealing, Plaintiff has been damaged in the amount that will be established according to proof at
25 the time of trial, including legally allowable interest and costs, plus consequential damages.
26
27
28

(Intentional Interference With Contractual Relations - Against Polvora, Pattee and LeBlanc)

73. At all times since November 15, 2007, there existed a valid contract between Plaintiff and Long to purchase the gaming license for Hemphill's card room, as well as its related assets. Attached hereto as **Exhibit "A"** is a copy of the BVK Purchase Agreement.

75. Polvora, Pattee, and Leblanc intended to disrupt the performance of the BVK Purchase Agreement or knew that disruption of that contract was certain or substantially certain to occur.

77. Plaintiff is informed and believes and thereon alleges that, in an effort to interfere with Plaintiff's rights under the BVK Purchase Agreement, on July 6, 2017, the Polvora Defendants intentionally entered into the operative agreement regarding Hemphill's Card room with Long, and then caused that operative agreement to be submitted to the Bureau. Furthermore, on October 30, 2017, the Polvora Defendants intentionally caused their

1 representative (Jarhett Blonien) to send a letter to the Bureau and request that the Bureau
2 cease its review of the BVK Purchase Agreement.

3
4 78. Because Plaintiff was unaware of these aforementioned actions, Plaintiff
5 continued with its efforts to have the BVK Purchase Agreement approved by the Bureau, as
6 alleged above. For instance, on November 2, 2017, Plaintiff's representative and Bureau staff
7 participated in a conference call regarding the status of the sale of the Hemphill's card room.
8 The Bureau did not mention the existence of Blonien's October 30, 2017, letter.
9

10 79. Polvora's, Pattee's, and LeBlanc's conduct induced a breach of contract,
11 prevented performance and/or made the performance of the BVK Purchase Agreement more
12 difficult or expensive. Plaintiff is informed and believes and alleges thereon that Defendants
13 intended this result, or knew it was likely.
14

15 80. Because of the intentional acts of the Defendants as alleged above, there has
16 been an actual disruption of Plaintiff's contractual relationship with Long. For instance, because
17 of the Defendants' conduct, the Bureau ceased its review of the BVK Purchase Agreement.
18

19 81. Despite knowledge of the BVK Purchase Agreement to acquire the Hemphill's
20 license, the Defendants made no effort to withdraw their competing application from the
21 Bureau or to inform the Bureau that the review of the BVK Purchase Agreement application
22 should not have ceased.
23

24 82. Defendants' conduct was a substantial factor in causing damage to Plaintiff. As a
25 proximate result of the conduct of Defendants as alleged herein, Plaintiff was damaged, the
26 exact amount of which will be proven at time of trial. When Plaintiff has ascertained the full
27 amount of its damages, it will seek leave of Court to amend this complaint accordingly.
28

PRAYER FOR RELIEF

1. Specific performance of the BVK Purchase Agreement;
2. For a judicial determination of Plaintiff's rights and a declaration that:
 - a. the BVK Purchase Agreement is valid and enforceable by the Plaintiff.
 - b. the BVK Purchase Agreement has not been rescinded.
 - c. the BVK Purchase Agreement has not been repudiated.
 - d. there exists a binding obligation on the part of Long to take all necessary actions to complete the sale and relinquish his Hemphill's license in favor of Plaintiff.
 - e. the BVK Purchase Agreement supersedes the July 6, 2017, Restated Asset Purchase and Sale Agreement that was submitted by Defendants to the Bureau.
 - f. the asset purchase agreement(s) entered into between the Polvora Defendants and Long (relating to the Hemphill's license) are null and void.
 - g. Plaintiff has the present right to purchase Hemphill's and gain its license through relinquishment by Long of the Hemphill's license pursuant to the BVK Purchase Agreement.

1 h. the Bureau is permitted to continue reviewing the BVK Purchase
2 Agreement and that there is no legal impediment preventing the Bureau from approve
3 the BVK Purchase Agreement.
4

- 5 3. General and specific damages according to proof;
6 4. For punitive damages to be proven at trial;
7 5. For costs of suit herein;
8 6. For allowable attorney fees as provided in the Agreement; and
9 7. All other relief allowed by law in which the Court deems proper.
10

11
12 Dated: March 7, 2019

COSTALAW

13
14 By: /S/ Joseph P. Costa
15 Joseph P. Costa, Esq.
16 Darius Anthony Vosylius, Esq.
17 Attorneys for Plaintiff BVK Gaming, Inc.
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Exhibit A

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement ("Agreement") is made and entered into as of this 1st day of October 2007, by and between B.V.K. Gaming, Inc., a California corporation (the "Buyer"), on the one hand, and the Estate of Billy Long by Tim Long, as Executor (the "Estate"), and Tim Long, an individual ("Long") (the Estate and Long are individually referred to as a "Seller" and collectively referred to as the "Sellers").

RECITALS

A. The Estate is currently the owner of Hemphill's Card Room, a licensed California gambling establishment pursuant to California Business and Professions Code Section 19800 et. seq. and the local governing ordinance, most recently located in Napa, California and currently closed (the "Business"), and, in connection therewith, the Estate is the current holder of an owner's gambling establishment license (the Hemphill's gambling license) and the Estate's gambling license (and any subsequent gambling licenses with respect to the Business granted to Long or any person or entity affiliated with Long, it being understood that it may be necessary for Long and/or persons or entities affiliated with Long to apply for and obtain such licenses prior to the Closing, as defined in section 4 below) are collectively referred to as the "Licenses"); and

B. Sellers desire to sell all of the Business assets to Buyer including relinquishing the Licenses in favor of Buyer's application for the same and Buyer desires to purchase the Business assets and apply for the necessary State and local gambling licenses in connection therewith, on the terms and subject to the conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the premises and the respective warranties, representations, covenants and agreements hereinafter set forth, Sellers and Buyer hereby mutually agree as follows:

1. Purchased Assets. Sellers agree to sell, assign, transfer and deliver to Buyer, and Buyer agrees to purchase from Sellers, on the Closing Date (as defined in section 4 hereof), all of the right, title and interest of Sellers in and to all of the following assets (the "Purchased Assets") which are owned and/or used by Sellers in connection with the Business, free and clear of all security interests, liens, claims and other encumbrances whatsoever:

all remaining assets of the Business, including without limitation, the name "Hemphill's Card Room" and all trademarks, tradenames, corporate names, service marks, trade secrets, proprietary data, and other intellectual property rights, in connection therewith, and all books and records of the Business.

In addition, Sellers agree that the Business and Sellers will, as directed by Buyer, relinquish the Licenses solely in favor of Buyer's application(s) for the same with all relevant government authorities. Sellers agree to fully cooperate with Buyers, at Buyer's expense, in connection with all such applications. For reference purposes throughout this Agreement, the Licenses shall be deemed to be included in the term "Purchased Assets."

2. No Liabilities Assumed by Buyer. Buyer and Sellers agree that Buyer shall not assume, nor shall Buyer in any way be responsible for, any liability, obligation, claim or commitment, contingent, actual or otherwise, known or unknown, of Sellers or any of their respective shareholders, directors, officers, members, employees or agents, it being expressly understood and agreed that Sellers shall continue to be responsible for any and all liabilities, obligations, claims or commitments of Sellers or the Business entered into on or prior to the Closing Date, including but not limited to, any sales, income, payroll or other taxes, obligations to other creditors including vendors, employees and customers or other liabilities, obligations, claims or commitments of the Sellers incurred in connection with the transactions contemplated hereby.

3. Purchase Price and Payment. The purchase price (the "Purchase Price") for the Purchased Assets shall be equal to the total sum of Seven Hundred Fifty Thousand Dollars (\$750,000.00). The Purchase Price shall be payable as follows:

(a) \$75,000.00 in cash to pass to Sellers within five (5) days of the execution of this Agreement by all parties to serve as a deposit. This deposit shall be fully refundable to Buyer on demand if this purchase and sale transaction fails to close for any reason other than due solely to an act or omission of Buyer.

(b) \$300,000.00 in cash (the "Cash") at the Closing; and

(b) \$375,000.00 in the form of a promissory note (the "Note") in the form of Exhibit 3(b).

The parties shall agree on or prior to the Closing to allocate the Purchase Price among the Purchased Assets in accordance with section 1060 of the Internal Revenue Code of 1986, as amended, and not to take any inconsistent position on any tax return or filing.

4. Closing.

A. Promptly following execution, this Agreement shall be submitted to the California Gambling Control Commission ("CGCC") for approval in accordance with applicable law. The Closing ("Closing" or "Closing Date") of the transactions contemplated hereby shall take place on the day immediately following the later of the CGCC's and Division of Gambling Control's approval or the local jurisdiction's approval of the licensing of the Buyer to own and operate Hemphill's Card Room. In no event shall this transaction close earlier than ninety (90) calendar days after the submission of the completed application(s) for approval by the Buyer. Any fees due the Division of Gambling Control or the Gambling Control Commission for the previous operation of Hemphill's Card Room shall be the responsibility of the Sellers. All license fees, background investigation fees, and other costs associated with the Commission or the Division shall be the responsibility of the Buyer after the Closing of this transaction. The Closing of this transaction shall take place at the Napa Valley Casino, 3466 Broadway Street, American Canyon, CA 94503 at 10 a.m., or at such other place, time or date as shall be mutually agreed upon by Sellers and Buyer. Buyer shall have one year from the approval of this Agreement and the transactions contemplated herein by the CGCC in which to obtain the necessary licenses and approvals from the Division of Gambling Control, the CGCC and the City of Napa. If such licenses and approvals are not obtained within such one year period (other than due to an act or omission of Sellers or either of them including, without limitation, the failure to fully resolve the dispute set forth in section 5(h) below), the Buyer may elect to extend such one year period for an additional six (6) months by depositing with Sellers the additional sum of \$75,000 which shall be applied to the Cash due at Closing. If the Buyer does not elect to deposit such additional \$75,000 sum or if such deposit is made and the necessary licenses and approvals from the Division of Gambling Control, the CGCC and the City of Napa are not obtained by Buyer within such additional six (6) month period (other than due to an act or omission of Sellers or either of them including, without limitation, the failure to fully resolve the dispute set forth in section 5(h) below) then the parties shall agree upon a new Closing Date or any party may declare this Agreement null and void in which case the additional \$75,000 deposit shall be fully refundable to Buyer on demand if the purchase and sale transaction fails to close for any reason other than due solely to an act or omission of Buyer.

B. At the Closing, Sellers shall deliver to Buyer the following:

(i) such bill of sale or other good and sufficient instruments of assignment, transfer and conveyance as Buyer shall reasonably request, to convey and to transfer to Buyer all right, title and interest of Sellers in the Purchased Assets to Buyer, free and clear of all security interests, liens, claims and encumbrances;

(ii) all appropriate instruments granting to Buyer the ownership of and right to the use of the tradename "Hemphill's Card Room" and all other tradenames and trademarks owned or used by Sellers in connection with the Business;

(iii) such other instrument or instruments of transfer, if any, as shall be necessary or appropriate to vest in the Buyer good and marketable title to the Purchased Assets free and clear of all liens, claims, security interests and other encumbrances whatsoever.

C. At the Closing, Buyer shall deliver to Sellers the following:

- (i) the Cash; and
- (ii) the Note.

5. Representations, Warranties and Covenants of Sellers. Each Seller, jointly and severally, hereby represents and warrants, and from and after this date, covenants to Buyer as follows:

(a) Authority and Enforceability. Seller has all necessary power and authority to enter into this Agreement, and to carry out and perform the transactions contemplated hereby. The execution, delivery and performance of this Agreement by Seller will not violate any agreement to which Seller or the Business is a party or by which Seller or the Business is bound or any law, rule, regulation or court order applicable to Seller or the Business. This Agreement, and all other instruments, documents and agreements to be delivered by Seller in connection therewith, are the legal, valid and binding obligation of Seller enforceable in accordance with its, and their, terms.

(b) Title. Seller has good and marketable title to all of the Purchased Assets, free and clear of any liabilities, obligations, claims, security interest, liens or encumbrances.

(c) Licenses. The Licenses are current and valid and all fees have been fully paid in connection therewith. Neither the Licenses nor the Business has been or is subject to any conditions, restrictions, disciplinary proceedings or orders of any kind or nature whatsoever. The Estate is the sole holder of the Licenses and there are no other "owners" as that term is defined in the California Gambling Control Act.

(d) Taxes. The Business has timely filed all required federal, state, county and local income, excise, withholding, property, sales, use, franchise and other tax returns, declarations and reports which are required to be filed on or before the date hereof and has paid or reserved for all taxes which have become due pursuant to such returns or pursuant to any assessment which has become payable except for taxes which it has contested in good faith.

(e) Litigation. There is no litigation or proceeding or governmental investigation pending or, to the knowledge of Sellers, threatened against Sellers or either of them or relating to the Purchased Assets, Licenses or the Business.

(f) Compliance with Laws. While in operation, the Business complied in all material respects with all federal, state and local laws, statutes, rules, regulations, ordinances and codes, and received no written notice from any governmental agency asserting that a violation has or may have occurred.

(g) Completeness of Assets. The Purchased Assets, comprise all of the assets currently owned or used by the Business.

(h) Sellers hereby advise Buyer that a dispute exists between Sellers and Mr. Anthony Pillott, Mr. Bruce Myers, and Mr. Chad Williams relating to certain real property situated at 1144 Jordan Lane, and a potential business opportunity relating to "Hemphill's Card Room." Sellers are currently involved in settlement discussions with the above-referenced parties, and anticipates that the dispute will be resolved in the near future, it being understood and agreed by the parties that said dispute must be fully resolved before the Closing may occur.

6. Representations, Warranties and Covenants of Buyer. Buyer hereby represents and warrants, and from and after this date covenants to Sellers as follows:

(a) Organization and Authority. Buyer is a corporation, duly organized, validly existing, and in good standing under the laws of the State of California and has all requisite corporate power and authority to carry on its business as it is presently being conducted, to enter into this Agreement, and to carry out and perform the transactions contemplated hereby. The execution, delivery and performance of this Agreement by Buyer has been duly authorized and approved by its shareholders and its Board of Directors, and will not violate its Articles of Incorporation, By-Laws, or any agreement to which it is a party or by which it is bound or any law, rule, regulation or court order. This Agreement, and all other instruments, documents and agreements to be delivered by Buyer in connection therewith, are the legal, valid and binding obligation of Buyer enforceable in accordance with its, and their, terms.

7. Actions Prior to the Closing Date. The respective parties hereto covenant and agree to take the following actions between the date hereof and the Closing Date:

(a) Investigation of Sellers by the Buyer. Sellers shall afford to the officers, employees and authorized representatives (including, without limitation, independent public accountants and attorneys) of the Buyer a full and complete opportunity to conduct and complete an acquisition review and analysis of the Purchased Assets (the "Acquisition Review"), including a review of the status of the Licensees with the relevant government authorities.

(b) Consents and Approvals. The Buyer and the Sellers each agree to use their best efforts and to fully cooperate with the CGCC, any other relevant authority and one another in seeking and obtaining the approval of this Agreement by the CGCC at the earliest possible time.

(c) Non-Compete/Non-Solicitation. Sellers, and their affiliates, shall not, individually or as a consultant, shareholder, partner, venturer, director, officer, agent or otherwise, engage in any of the following actions:

- (i) for a three (3) year period following the Closing, solicit, call on or contact any past (within the past 12 months) or present customers, suppliers or employees of Sellers with respect to the Business; or
- (ii) for a three (3) year period following the Closing, engage in any activity competitive with the Business.

Each Seller understands and agrees that this section is critical to this Agreement, and in the event that Seller commits a breach of this section, Buyer shall have the non-exclusive right and remedy to have this section specifically enforced to the extent permitted by any court of competent jurisdiction, it being acknowledged and agreed that any breach or threatened breach will cause immediate irreparable injury to Buyer and that monetary damages will not provide an adequate remedy at law. If any of the provisions contained herein are construed to be invalid or unenforceable in any jurisdiction, (x) the same shall not affect the remainder of the provisions or the enforceability thereof, which shall be given full force and effect and (y) the court making such determination shall have the power to reform the duration and/or scope of such section.

8. Conditions Precedent to Obligations of Sellers. The obligations of the Sellers under this Agreement shall be subject to the satisfaction, on or prior to the Closing Date, of the conditions set forth below or written waiver thereof by Sellers.

(a) No Misrepresentation or Breach of Representations, Warranties and Covenants. There shall have been no breach by Buyer in the performance of any of its covenants and agreements herein; each of the representations and warranties of Buyer contained or referred to herein shall be true and correct in all material respects on the Closing Date as though made on the Closing Date and there shall have been delivered to the Sellers a certificate or certificates to that effect, dated the Closing Date, signed by an officer of Buyer.

(b) Corporate Action. Buyer shall have taken all corporate action necessary to approve the transactions contemplated by this Agreement, and Buyer, upon Seller's request prior to the Closing shall have furnished the Sellers with complete copies of the resolutions adopted by the Board of Directors and the shareholder of Buyer in connection with such transactions.

(c) No Restraint or Litigation. No action, suit, investigation or proceeding shall have been instituted or threatened by any third party, governmental or regulatory agency to restrain, prohibit or otherwise challenge the legality or validity of the transactions contemplated hereby.

(d) Regulatory Approval. This Agreement and the transactions contemplated hereby, including, without limitation the licensing of Buyer to own and operate Hemphill's, shall have been approved by the CGCC and the local licensing jurisdiction.

(e) Note. Sellers shall have received the Cash and the Note.

9. Conditions Precedent to Obligations of Buyer. The obligations of the Buyer under this Agreement shall be subject to the satisfaction, on or prior to the Closing Date, of the conditions set forth below or written waiver thereof by Buyer.

(a) No Misrepresentation or Breach of Representations, Warranties and Covenants. There shall have been no breach by Sellers in the performance of any of their covenants and agreements herein; each of the representations and warranties of Sellers contained or referred to herein shall be true and correct in all material respects on the Closing Date as though made on the Closing Date, except for changes therein specifically permitted by this Agreement or resulting from any transaction expressly consented to in writing by the Buyer; and there shall have been delivered to the Buyer a certificate or certificates to that effect, dated the Closing Date, signed by the Sellers.

(b) No Restraint or Litigation. No action, suit, investigation or proceeding shall have been instituted or threatened by any third party, governmental or regulatory agency to restrain, prohibit or otherwise challenge the legality or validity of the transactions contemplated hereby.

(c) Acquisition Review. Buyer shall have been satisfied, in its own discretion, with its Acquisition Review.

(d) Regulatory Approval. This Agreement and the transactions contemplated hereby, including, without limitation, the licensing of Buyer to own and operate Hemphill's, shall have been approved by the CGCC and the local licensing authority.

(e) Other Documentation. Buyer shall have received all of the documents and showings required to be delivered by the Sellers at the Closing pursuant to section 4(B).

(f) The dispute referenced in Section 5(h) above shall have been fully resolved and Buyer shall have received evidence thereof reasonably satisfactory to Buyer.

10. Mutual Indemnification.

A. Each Seller, jointly and severally, hereby agrees to indemnify and hold the Buyer, and its shareholders, directors, officers, employees and agents, harmless from and against any and all claims, suits, actions, judgments, liability, losses, damages, fines, penalties, costs and expenses, including without limitation, reasonable attorneys' fees and costs arising out of or relating to any event, condition, contract, obligation, act, omission, non-fulfillment, breach, inaccuracy or non-fulfillment of any representation, warranty, covenant or agreement with respect to any of the terms of this Agreement.

B. Buyer hereby agrees to indemnify and hold harmless the Sellers, and their shareholders, directors, officers, employees and agents, from and against any and all claims, suits, actions, judgments, liability, losses, damages, fines, penalties, costs and expenses, including without limitation, reasonable attorneys' fees and costs arising out of or relating to any event, condition, contract, obligation, act, omission, non-fulfillment, breach or misrepresentation of warranty, representation, covenant or agreement with respect to any of the terms of this Agreement.

11. Personal Liability.

Mr. Brian Altizer hereby assumes each and every obligation, and at Mr. Altizer's election, all rights, of B. V. K. Gauding, Inc., the Buyer in this transaction. Mr. Altizer hereby agrees that he is personally liable for all of the obligations and responsibilities of the Buyer, and does hereby stand in the shoes of the Buyer, and accepts the responsibility for payment of all sums provided for in this Agreement, and personally agrees to pay the sums herein specified. Mr. Tim Long hereby assumes each and every obligation, and at Mr. Long's election, all rights, of the Estate in this transaction. Mr. Long hereby agrees that he is personally liable for all of the obligations and responsibilities of the Estate, and does hereby stand in the shoes of the Estate, and accepts the responsibility for payment and performance of all obligations of the Estate provided for in this Agreement.

12. Due on Sale.

Sellers hereby agree that any and all sums due Sellers pursuant to this Agreement and the Promissory Note, shall become immediately due and payable upon the sale and/or transfer of the Business and the Licenses to any other person or entity as to which Brian Altizer does not have a 51% controlling interest.

13. Other Provisions.

A. All notices for which provision is made in this Agreement shall be given in writing by hand delivery or by mailing the notice by registered or certified mail, return receipt requested, in which case the notice shall be deemed to be given on the third day following its mailing, addressed as follows:

If to Sellers:

Tim Long
P.O. Box 2058
Napa, CA 94558

If to Buyer:

B.V.K. Gaming, Inc.
P.O. Box 10078
American Canyon, CA 94503
Attention: Brian Altizer

with a copy to:

Keldi A. Sharp, Esq.
Falk & Sharp
199 S. Los Robles Ave., Suite 600
Pasadena, CA 91101

B. The terms and provisions hereof shall inure to the benefit of and be binding upon the undersigned and each of them and their respective successors and assigns. This Agreement may not be assigned by Sellers.

C. The invalidity or unenforceability of any of the provisions hereof shall not affect the validity or enforceability of the remainder hereof.

D. This Agreement together with all of the Exhibits, Schedules and other documents referred to herein constitutes the entire Agreement between the parties with reference to the subject matter hereof and supersedes all prior agreements and understandings, whether written or oral, regarding the subject matter hereof, and may only be changed or modified in writing.

E. All of the representations, warranties, covenants, agreements, terms and provisions of this Agreement shall survive the Closing Date.

F. This Agreement is intended to be performed in the State of California and shall be governed by and construed and enforced in accordance with the internal laws of that state.


TL
B

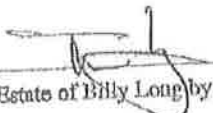
G. In any action to interpret or enforce this Agreement the prevailing party shall be entitled to receive its reasonable attorneys' fees and costs in addition to any other relief to which it may be entitled.

This Agreement is intended for the benefit of the parties hereto and is not intended to benefit any third party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, as of the date and year first above written.


SELLERS:

 10/15/07
Tim Long, an individual

 10/15/07
Estate of Billy Long by Tim Long, Executor

BUYER:

B.V.K. Gaming, Inc.

By: 

Its OWNER C.F.O.

EXHIBIT 30B
PROMISSORY NOTE

\$375,000.00

_____, 2007

FOR VALUE RECEIVED, the undersigned, B.V.K. Gaming, Inc., a California corporation ("Payor"), hereby promises to pay to the order of Tim Long, an individual ("Payee"), in lawful money of the United States of America, the principal sum of Three Hundred Seventy Five Thousand Dollars (\$375,000.00) with annual interest at six percent (6%) per annum. This Note shall be repaid in monthly installments commencing on the thirtieth (30th) day following the Closing (as defined in that certain Asset Purchase Agreement between Payor, on the one hand, and Payee and the Estate of Billy Long, on the other hand, dated October 1, 2007 ("Asset Purchase Agreement")) and at the conclusion of each thirty (30) day period thereafter as follows: (a) interest only for each of the first through twenty fourth installments; (b) Ten Thousand Dollars (\$10,000.00) for each of the twenty fifth through forty eighth installments, and; (c) Twenty Thousand Dollars (\$20,000) for each of the following installments until this Note is paid in full or such lesser amount with respect to the final payment as necessary to pay the Note in full.

Payor shall have the right to prepay this Note, in whole or in part, without premium or penalty. All prepayments shall be applied to the next required monthly payments under this Note.

All payments hereunder shall be paid to Payee at the office of Payee, P.O. Box 2058, Napa Valley, CA 94558, or at such other place or places as the Payee or legal holder may from time to time designate in writing.

At the election of the Payee or legal holder hereof and without notice, demand or legal process, the indebtedness remaining unpaid hereon shall become at once due and payable at the place of payment aforesaid in case of default ("Default") as follows: (i) in the payment, when due and payable, of any payment of principal or interest hereunder after a fifteen (15) day grace period or (ii) the filing by Payor of a voluntary petition in bankruptcy or the filing against Payor of an involuntary petition in bankruptcy which petition is not stayed or dismissed within sixty (60) days, or an assignment for the benefit of creditors by Payor. In the event of a Default, the Payee or legal holder hereof shall be entitled to (a) interest on all overdue payments at the maximum rate permitted by law and (b) reasonable costs and expenses of collection, including reasonable attorneys' fees.

This Note is delivered pursuant to and subject to the terms of the Asset Purchase Agreement. It is understood and agreed that in the event that Payee owes any sums to Payor pursuant to section 10(A) of the Purchase Agreement, Payor may offset against the next due and owing payments under this Note any amounts that are owed by Payee, and the amount owed under this Note shall be reduced accordingly. Payee may not assign, pledge, or encumber this Note.

No delay or admission on the part of Payee or any holder hereof in exercising any right or option herein given to such Payee or holder shall impair such right or option or be considered as a waiver or acquiescence in any default hereunder. Payor hereby waives presentment, demand, notice of dishonor and protest; agrees to pay all expenses, including reasonable attorneys' fees and legal expenses incurred by Payee in endeavoring to collect any amount payable hereunder; and recognizes that Payee may demand payment of this Note in case of Default. Payor agrees that any action or proceeding to enforce this Note may be commenced in the courts of the State of California or the U.S. Federal District Court for the Northern District of California.

This Note shall be construed in accordance with the laws of the State of California.

B.V.K. GAMING, INC.

By: 

Its: OWNER/ C.F.O.

R
O

PROOF OF SERVICE

STATE OF CALIFORNIA)
)
 COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 17383 Sunset Boulevard, Suite A-350; Pacific Palisades, CA 90272.

On March 8, 2019, I served the foregoing document described as **SECOND AMENDED COMPLAINT** on the interested parties in this action as follows:

Mark S. Pollock, Esq. C. Evangeline James, Esq. POLLOCK & JAMES, LLP 1792 Second Street Napa, CA 94559 Phone: (707) 257-3089 Email: mpollock@pollockandjames.com	Robert S. McWhorter, Esq. BUCHALTER 500 Capitol Mall Suite 1900 Sacramento, CA 95814-4762 Phone: (916) 945-5188 Email: rmcwhorter@buchalter.com
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[X] By United States mail. I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses above and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 8, 2019, at Pacific Palisades, California.


 Nicole Angrisani

ATTACHMENT “B”

FILED

DEC 04 2019

CLERK OF THE NAPA SUPERIOR COURT

BY

DEPUTY

ALLISON HALEY, DISTRICT ATTORNEY
 COUNTY OF NAPA
 STATE BAR NO.: 219182
 1127 First Street, Suite C
 Napa, CA 94559
 TEL: (707) 253-4211
 FAX: (707) 253-4041

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 COUNTY OF NAPA**

THE PEOPLE OF THE STATE OF CALIFORNIA,
 Plaintiff,

vs.

TIMOTHY JOHN LONG,

DANIEL HOWARD YOUNG,

CHRIST GEORGE PARRAS,

GINO ANTHONY LONG,

Defendant(s).

NSC NO: 19CR003399

NDA NO: 198702911-06

199600992-10

201901925-01

201901926-01

CII NO: A07166022, A29826724,
 A22332667, Not Available

CRIMINAL COMPLAINT

DATE:

TIME:

DEPT:

The undersigned is informed and believes that:

COUNT ONE - PC 182(a)(1) - FELONY
CONSPIRACY TO COMMIT A CRIME

On or about May 08, 2018, in the County of Napa, State of California, the crime of CONSPIRACY TO COMMIT A CRIME, in violation of section PC 182(a)(1) of the Penal Code, a felony, was committed by TIMOTHY JOHN LONG, DANIEL HOWARD YOUNG, who did unlawfully conspire together and with another person and persons whose identity is unknown to commit the crime of Unregistered Home Improvement Salesperson, in violation of Section 7153 of the Business and Professions Code, a felony; that pursuant to and for the purpose of carrying out the objectives and purposes of the aforesaid conspiracy, the said defendant(s) committed the following overt act and acts at and in the County of Napa: submitted bid to reroof water damaged shed; signed \$4,200 contract to reroof shed. (to wit: Johnson property)

COUNT TWO - BP 7161(c) - MISDEMEANOR
MISREPRESENTATION TO ENTER INTO CONTRACT

On or about May 08, 2018, in the County of Napa, State of California, the crime of MISREPRESENTATION TO ENTER INTO CONTRACT, in violation of section BP 7161(c) of the Business and Professions Code, a misdemeanor, was committed by TIMOTHY JOHN LONG, DANIEL HOWARD YOUNG, who did engage in the execution of, or in the material alteration of, any contract, trust deed, mortgage, promissory note, or other document incident to a home improvement transaction or other transaction involving a work of improvement. (to wit: Johnson property)

COUNT THREE - BP 7153 - MISDEMEANOR
UNREGISTERED SALESPERSON

On or about May 08, 2018, in the County of Napa, State of California, the crime of UNREGISTERED SALESPERSON, in violation of section BP 7153 of the Business and Professions Code, a misdemeanor, was committed by DANIEL HOWARD YOUNG, who did unlawfully engage in the occupation of salesperson of home improvement goods or services within this state without having, at the time of the sales transaction, a current and valid home improvement salesperson registration issued by the registrar. (to wit: Johnson property)

COUNT FOUR - LB 3700.5 - MISDEMEANOR
FAILURE TO SECURE WORKER'S COMPENSATION INSURANCE

On or about or between May 08, 2018, and May 9, 2018, in the County of Napa, State of California, the crime of FAILURE TO SECURE WORKER'S COMPENSATION INSURANCE, in violation of section 3700.5 of the Labor Code, a misdemeanor, was committed by TIMOTHY JOHN LONG, who did willfully and unlawfully fail to secure the payment of compensation insurance as required by this article.

COUNT FIVE - BP 7027.3 - FELONY
FRAUDULENT USE OF CONTRACTOR'S LICENSE NUMBER

On or about August 27, 2018, in the County of Napa, State of California, the crime of FRAUDULENT USE OF CONTRACTOR'S LICENSE NUMBER, in violation of section BP 7027.3 of the Business and Professions Code, a felony, was committed by TIMOTHY JOHN LONG, who did willfully, unlawfully, intentionally and fraudulently use contractor's license number that does not correspond to the number on a currently valid contractor's license held by that person. (to wit: CSLB license #207346; RD Winery property)

COUNT SIX - PC 484b - FELONY
DIVERSION OF CONSTRUCTION FUNDS

On or about September 22, 2018, in the County of Napa, State of California, the crime of DIVERSION OF CONSTRUCTION FUNDS, in violation of section PC 484b of the Penal Code, a felony, was committed by TIMOTHY JOHN LONG, CHRIST GEORGE PARRAS, who did receive money for the purpose of obtaining or paying for services, labor, materials and equipment and did willfully fail to apply such money for such purpose by willfully failing to complete improvements and willfully failing to pay for services, labor, materials and equipment provided incident to such construction and did wrongfully divert funds to a use other than for which the funds were received. It is further alleged that the amount diverted exceed 2,350. (to wit: \$22,100 check dated Sept. 22, 2018; RD Winery property)

COUNT SEVEN - PC 182(a)(1) - FELONY
CONSPIRACY TO COMMIT A CRIME

On or about August 27, 2018, in the County of Napa, State of California, the crime of CONSPIRACY TO COMMIT A CRIME, in violation of section PC 182(a)(1) of the Penal Code, a felony, was committed by TIMOTHY JOHN LONG, CHRIST GEORGE PARRAS, who did unlawfully conspire together and with another person and persons whose identity is unknown to commit the crime of Misrepresentation to Enter into Contract, in violation of Section 7161 of the Business and Professions Code, a felony; that pursuant to and for the purpose of carrying out the objectives and purposes of the aforesaid conspiracy, the said defendant(s) committed the following overt act and acts at and in the County of Napa: provided contract with invalid CLSB license #207362; provided assurance of licensed contractor status; provided assurance of Worker's Compensation Insurance coverage. (to wit: RD Winery property)

COUNT EIGHT - PC 532(a) - FELONY
OBTAINING MONEY, LABOR OR PROPERTY BY FALSE PRETENSES

On or about or between August 27, 2018, and September 25, 2018, in the County of Napa, State of California, the crime of OBTAINING MONEY, LABOR OR PROPERTY BY FALSE PRETENSES, in violation of section PC 532(a) of the Penal Code, a felony, was committed by CHRIST GEORGE PARRAS, who did unlawfully, knowingly, designedly and fraudulently get possession of money and property, and obtain labor and service of another in violation of this section. (to wit: RD Winery property)

COUNT NINE - PC 115(a) - FELONY**PROCURING AND OFFERING FALSE OR FORGED INSTRUMENT**

On or about September 07, 2018, in the County of Napa, State of California, the crime of PROCURING AND OFFERING FALSE OR FORGED INSTRUMENT, in violation of section PC 115(a) of the Penal Code, a felony, was committed by GINO ANTHONY LONG, who did unlawfully and knowingly procure and offer a false and forged instrument to be filed, registered, and recorded in a public office within this state, which instrument, if genuine, might be filed, registered, and recorded under a law of this state or the United States. (to wit: permit; RD Winery property)

COUNT TEN - PC 118(a) - FELONY**PERJURY BY DECLARATION**

On or about September 07, 2018, in the County of Napa, State of California, the crime of PERJURY BY DECLARATION, in violation of section PC 118(a) of the Penal Code, a felony, was committed by GINO ANTHONY LONG, who did unlawfully, under penalty of perjury, declare as true, that which was known to be false, to wit: CSLB contractor's license status and/or Worker's Compensation Insurance coverage. (to wit: permit declaration; RD Winery property)

COUNT ELEVEN - BP 7161(c) - MISDEMEANOR**MISREPRESENTATION TO ENTER INTO CONTRACT**

On or about August 27, 2018, in the County of Napa, State of California, the crime of MISREPRESENTATION TO ENTER INTO CONTRACT, in violation of section BP 7161(c) of the Business and Professions Code, a misdemeanor, was committed by TIMOTHY JOHN LONG, CHRIST GEORGE PARRAS, who did engage in the execution of, or in the material alteration of, any contract, trust deed, mortgage, promissory note, or other document incident to a home improvement transaction or other transaction involving a work of improvement. (to wit: RD Winery property)

COUNT TWELVE - LB 3700.5 - MISDEMEANOR**FAILURE TO SECURE WORKER'S COMPENSATION INSURANCE**

On or about or between August 27, 2018, and January 14, 2019, in the County of Napa, State of California, the crime of FAILURE TO SECURE WORKER'S COMPENSATION INSURANCE, in violation of section 3700.5 of the Labor Code, a misdemeanor, was committed by TIMOTHY JOHN LONG, who did willfully and unlawfully fail to secure the payment of compensation insurance as required by this article.

COUNT THIRTEEN - BP 7027.3 - FELONY

FRAUDULENT USE OF CONTRACTOR'S LICENSE NUMBER

On or about September 07, 2018, in the County of Napa, State of California, the crime of FRAUDULENT USE OF CONTRACTOR'S LICENSE NUMBER, in violation of section BP 7027.3 of the Business and Professions Code, a felony, was committed by TIMOTHY JOHN LONG, DANIEL HOWARD YOUNG, who did willfully, unlawfully, intentionally and fraudulently use contractor's license number that does not correspond to the number on a currently valid contractor's license held by that person. (to wit: CSLB license #307362; Kerner property)

COUNT FOURTEEN - PC 484b - FELONY

DIVERSION OF CONSTRUCTION FUNDS

On or about September 07, 2018, in the County of Napa, State of California, the crime of DIVERSION OF CONSTRUCTION FUNDS, in violation of section PC 484b of the Penal Code, a felony, was committed by TIMOTHY JOHN LONG, who did receive money for the purpose of obtaining or paying for services, labor, materials and equipment and did willfully fail to apply such money for such purpose by willfully failing to complete improvements and willfully failing to pay for services, labor, materials and equipment provided incident to such construction and did wrongfully divert funds to a use other than for which the funds were received. It is further alleged that the amount diverted exceeded \$2,350. (to wit: \$8,300 check dated Sept. 7 2018; Kerner property)

COUNT FIFTEEN - PC 182(a)(1) - FELONY

CONSPIRACY TO COMMIT A CRIME

On or about September 07, 2018, in the County of Napa, State of California, the crime of CONSPIRACY TO COMMIT A CRIME, in violation of section PC 182(a)(1) of the Penal Code, a felony, was committed by TIMOTHY JOHN LONG, DANIEL HOWARD YOUNG, who did unlawfully conspire together and with another person and persons whose identity is unknown to commit the crime of Unregistered Home Improvement Salesperson, in violation of Section 7153 of the Business and Professions Code, a felony; that pursuant to and for the purpose of carrying out the objectives and purposes of the aforesaid conspiracy, the said defendant(s) committed the following overt act and acts at and in the County of Napa: submitted bid to reroof residence; signed \$16,650 contract to reroof residence. (to wit: Kerner property)

COUNT SIXTEEN - BP 7161(c) - MISDEMEANOR

MISREPRESENTATION TO ENTER INTO CONTRACT

On or about September 07, 2018, in the County of Napa, State of California, the crime of

1 MISREPRESENTATION TO ENTER INTO CONTRACT, in violation of section BP 7161(c) of
2 the Business and Professions Code, a misdemeanor, was committed by TIMOTHY JOHN
3 LONG, DANIEL HOWARD YOUNG, who did engage in the execution of, or in the material
4 alteration of, any contract, trust deed, mortgage, promissory note, or other document incident
5 to a home improvement transaction or other transaction involving a work of improvement.
6 (to wit: Kerner property)

7
8 **COUNT SEVENTEEN - BP 7159.5(a)(3) - MISDEMEANOR**
9 **EXCESSIVE DOWN PAYMENT**

10
11 On or about September 07, 2018, in the County of Napa, State of California, the crime of
12 EXCESSIVE DOWN PAYMENT, in violation of section BP 7159.5(a)(3) of the Business and
13 Professions Code, a misdemeanor, was committed by TIMOTHY JOHN LONG, who did
14 unlawfully charge a down payment that exceeded the lesser of \$1,000 or 10 percent of the
15 contract amount, for a home improvement contract. (to wit: 50 percent down payment for
16 reroof of Kerner property)

17
18 **COUNT EIGHTEEN - BP 7153 - MISDEMEANOR**
19 **UNREGISTERED SALESPERSON**

20
21 On or about September 07, 2018, in the County of Napa, State of California, the crime of
22 UNREGISTERED SALESPERSON, in violation of section BP 7153 of the Business and
23 Professions Code, a misdemeanor, was committed by DANIEL HOWARD YOUNG, who did
24 unlawfully engage in the occupation of salesperson of home improvement goods or services
25 within this state without having, at the time of the sales transaction, a current and valid home
26 improvement salesperson registration issued by the registrar. (to wit: Kerner property)

27
28 **COUNT NINETEEN - LB 3700.5 - MISDEMEANOR**
29 **FAILURE TO SECURE WORKER'S COMPENSATION INSURANCE**

30
31 On or about September 07, 2018, in the County of Napa, State of California, the crime of
32 FAILURE TO SECURE WORKER'S COMPENSATION INSURANCE, in violation of section
33 3700.5 of the Labor Code, a misdemeanor, was committed by TIMOTHY JOHN LONG, who
34 did willfully and unlawfully fail to secure the payment of compensation insurance as required by
35 this article.

36
37 **COUNT TWENTY - BP 7027.3 - FELONY**
38 **FRAUDULENT USE OF CONTRACTOR'S LICENSE NUMBER**

39
40 On or about September 27, 2018, in the County of Napa, State of California, the crime of

1 FRAUDULENT USE OF CONTRACTOR'S LICENSE NUMBER, in violation of section BP
 2 7027.3 of the Business and Professions Code, a felony, was committed by TIMOTHY JOHN
 3 LONG, who did willfully, unlawfully, intentionally and fraudulently use contractor's license
 4 number that does not correspond to the number on a currently valid contractor's license held
 5 by that person. (to wit: CSLB license #207362; Rowe property)

6
 7 **COUNT TWENTY-ONE - PC 484b - FELONY**
 8 **DIVERSION OF CONSTRUCTION FUNDS**

9
 10 On or about October 08, 2018, in the County of Napa, State of California, the crime of
 11 DIVERSION OF CONSTRUCTION FUNDS, in violation of section PC 484b of the Penal Code,
 12 a felony, was committed by TIMOTHY JOHN LONG, CHRIST GEORGE PARRAS, who did
 13 receive money for the purpose of obtaining or paying for services, labor, materials and
 14 equipment and did willfully fail to apply such money for such purpose by willfully failing to
 15 complete improvements and willfully failing to pay for services, labor, materials and equipment
 16 provided incident to such construction and did wrongfully divert funds to a use other than for
 17 which the funds were received. It is further alleged that the amount diverted exceeded \$2,350.
 18 (to wit: \$11,000 check dated Oct. 8, 2018; Rowe property)

19
 20 **COUNT TWENTY-TWO - PC 182(a)(1) - FELONY**
 21 **CONSPIRACY TO COMMIT A CRIME**

22
 23 On or about September 27, 2018, in the County of Napa, State of California, the crime of
 24 CONSPIRACY TO COMMIT A CRIME, in violation of section PC 182(a)(1) of the Penal Code,
 25 a felony, was committed by TIMOTHY JOHN LONG, CHRIST GEORGE PARRAS, who did
 26 unlawfully conspire together and with another person and persons whose identity is unknown
 27 to commit the crime of Unregistered Home Improvement Salesperson, in violation of Section
 28 7153 of the Business and Professions Code, a felony; that pursuant to and for the purpose of
 29 carrying out the objectives and purposes of the aforesaid conspiracy, the said defendant(s)
 30 committed the following overt act and acts at and in the County of Napa: submitted bid for
 31 reroof of residence; signed \$22,000 contract for reroof of residence. (to wit: Rowe property)

32
 33 **COUNT TWENTY-THREE - BP 7161(c) - MISDEMEANOR**
 34 **MISREPRESENTATION TO ENTER INTO CONTRACT**

35
 36 On or about September 27, 2018, in the County of Napa, State of California, the crime of
 37 MISREPRESENTATION TO ENTER INTO CONTRACT, in violation of section BP 7161(c) of
 38 the Business and Professions Code, a misdemeanor, was committed by TIMOTHY JOHN
 39 LONG, who did engage in the execution of, or in the material alteration of, any contract, trust
 40 deed, mortgage, promissory note, or other document incident to a home improvement

transaction or other transaction involving a work of improvement. (to wit: Rowe property)

COUNT TWENTY-FOUR - BP 7159.5(a)(3) - MISDEMEANOR
EXCESSIVE DOWN PAYMENT

On or about October 08, 2018, in the County of Napa, State of California, the crime of EXCESSIVE DOWN PAYMENT, in violation of section BP 7159.5(a)(3) of the Business and Professions Code, a misdemeanor, was committed by TIMOTHY JOHN LONG, who did unlawfully charge a down payment that exceeded the lesser of \$1,000 or 10 percent of the contract amount, for a home improvement contract. (to wit: 50 percent down payment for reroof of Rowe property)

COUNT TWENTY-FIVE - BP 7153 - MISDEMEANOR
UNREGISTERED SALESPERSON

On or about September 27, 2018, in the County of Napa, State of California, the crime of UNREGISTERED SALESPERSON, in violation of section BP 7153 of the Business and Professions Code, a misdemeanor, was committed by CHRIST GEORGE PARRAS, who did unlawfully engage in the occupation of salesperson of home improvement goods or services within this state without having, at the time of the sales transaction, a current and valid home improvement salesperson registration issued by the registrar. (to wit: Rowe property)

COUNT TWENTY-SIX - LB 3700.5 - MISDEMEANOR
FAILURE TO SECURE WORKER'S COMPENSATION INSURANCE

On or about or between September 27, 2018, and October 08, 2018, in the County of Napa, State of California, the crime of FAILURE TO SECURE WORKER'S COMPENSATION INSURANCE, in violation of section 3700.5 of the Labor Code, a misdemeanor, was committed by TIMOTHY JOHN LONG, who did willfully and unlawfully fail to secure the payment of compensation insurance as required by this article.

COUNT TWENTY-SEVEN - BP 7027.3 - FELONY
FRAUDULENT USE OF CONTRACTOR'S LICENSE NUMBER

On or about or between October 16, 2018, and October 17, 2018, in the County of Napa, State of California, the crime of FRAUDULENT USE OF CONTRACTOR'S LICENSE NUMBER, in violation of section BP 7027.3 of the Business and Professions Code, a felony, was committed by TIMOTHY JOHN LONG, who did willfully, unlawfully, intentionally and fraudulently use contractor's license number that does not correspond to the number on a currently valid contractor's license held by that person. (to wit: CSLB license #207362; Country Inn

1 Retirement Home property)

2
3 **COUNT TWENTY-EIGHT - PC 484b - FELONY**
4 **DIVERSION OF CONSTRUCTION FUNDS**
5

6 On or about or between October 18, 2018, and October 19, 2018, in the County of Napa, State
7 of California, the crime of DIVERSION OF CONSTRUCTION FUNDS, in violation of section
8 PC 484b of the Penal Code, a felony, was committed by TIMOTHY JOHN LONG, who did
9 receive money for the purpose of obtaining or paying for services, labor, materials and
10 equipment and did willfully fail to apply such money for such purpose by willfully failing to
11 complete improvements and willfully failing to pay for services, labor, materials and equipment
12 provided incident to such construction and did wrongfully divert funds to a use other than for
13 which the funds were received. It is further alleged that the amount diverted exceed \$2,350. (to
14 wit: \$20,750 check dated October 18, 2018 and/or \$20,750 check dated October 19, 2018;
15 Country Inn Retirement Home property)

16
17 **COUNT TWENTY-NINE - BP 7161(c) - MISDEMEANOR**
18 **MISREPRESENTATION TO ENTER INTO CONTRACT**
19

20 On or about or between October 16, 2018, and October 17, 2018, in the County of Napa, State
21 of California, the crime of MISREPRESENTATION TO ENTER INTO CONTRACT, in violation
22 of section BP 7161(c) of the Business and Professions Code, a misdemeanor, was committed
23 by TIMOTHY JOHN LONG, who did engage in the execution of, or in the material alteration of,
24 any contract, trust deed, mortgage, promissory note, or other document incident to a home
25 improvement transaction or other transaction involving a work of improvement. (to wit: Country
26 Inn Retirement Home property)

27
28 **COUNT THIRTY - LB 3700.5 - MISDEMEANOR**
29 **FAILURE TO SECURE WORKER'S COMPENSATION INSURANCE**
30

31 On or about or between October 16, 2018, and December 05, 2018, in the County of Napa,
32 State of California, the crime of FAILURE TO SECURE WORKER'S COMPENSATION
33 INSURANCE, in violation of section 3700.5 of the Labor Code, a misdemeanor, was
34 committed by TIMOTHY JOHN LONG, who did willfully and unlawfully fail to secure the
35 payment of compensation insurance as required by this article.

36
37 **SPEC ALLEG - AGGRAVATED WHITE COLLAR CRIME (\$100,000) - PC 186.11(a)(3)**
38

39 It is further alleged, pursuant to Penal Code section 186.11(a), that the offenses set forth in
40 counts 1, 5, 6, 7, 13, 14, 15, 20, 21, 22, 27, and/or 28 are related felonies, a material element

of which is fraud and embezzlement, which involve a pattern of related felony conduct, and the pattern of related felony conduct involves the taking of more than One Hundred Thousand Dollars (\$100,000).

Complainant therefore prays that a warrant be issued and that said defendant(s) be dealt with according to law. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: December 04, 2019

ALLISON HALEY
DISTRICT ATTORNEY



NINA JEHLER
Deputy District Attorney

/kj

NOTICE

PLEASE TAKE NOTICE THAT COUNSEL FOR THE PEOPLE HEREBY MAKE AN INFORMAL DEMAND FOR DISCOVERY (PURSUANT TO PC 1054.3) WITHIN FIFTEEN DAYS

SUMMARY OF CHARGE(S) AND PUNISHMENT(S)

TIMOTHY JOHN LONG

(DOB: 03/16/1962)

COUNT	CHARGE	PUNISHMENT
COUNT ONE	PC 182(a)(1)	Check Code
COUNT TWO	BP 7161(c)	
COUNT FOUR	LB 3700.5	6 Mos.
COUNT FIVE	BP 7027.3	16-2-3
COUNT SIX	PC 484b	16-2-3
COUNT SEVEN	PC 182(a)(1)	Check Code
COUNT ELEVEN	BP 7161(c)	
COUNT TWELVE	LB 3700.5	6 Mos.
COUNT THIRTEEN	BP 7027.3	16-2-3
COUNT FOURTEEN	PC 484b	16-2-3
COUNT FIFTEEN	PC 182(a)(1)	Check Code

COUNT SIXTEEN	BP 7161(c)	
COUNT SEVENTEEN	BP 7159.5(a)(3)	1 Year
COUNT NINETEEN	LB 3700.5	6 Mos.
COUNT TWENTY	BP 7027.3	16-2-3
COUNT TWENTY-ONE	PC 484b	16-2-3
COUNT TWENTY-TWO	PC 182(a)(1)	Check Code
COUNT TWENTY-THREE	BP 7161(c)	
COUNT TWENTY-FOUR	BP 7159.5(a)(3)	1 Year
COUNT TWENTY-SIX	LB 3700.5	6 Mos.
COUNT TWENTY-SEVEN	BP 7027.3	16-2-3
COUNT TWENTY-EIGHT	PC 484b	16-2-3
COUNT TWENTY-NINE	BP 7161(c)	
COUNT THIRTY	LB 3700.5	6 Mos.
SPEC ALLEG	PC 186.11(a)(3)	

SUMMARY OF CHARGE(S) AND PUNISHMENT(S)
CHRIST GEORGE PARRAS
 (DOB: 09/24/1961)

COUNT	CHARGE	PUNISHMENT
COUNT SIX	PC 484b	16-2-3
COUNT SEVEN	PC 182(a)(1)	Check Code
COUNT EIGHT	PC 532(a)	16-2-3
COUNT ELEVEN	BP 7161(c)	
COUNT TWENTY-ONE	PC 484b	16-2-3
COUNT TWENTY-TWO	PC 182(a)(1)	Check Code
COUNT TWENTY-	BP 7153	

FIVE

SUMMARY OF CHARGE(S) AND PUNISHMENT(S)

DANIEL HOWARD YOUNG

(DOB: 10/09/1954)

COUNT	CHARGE	PUNISHMENT
COUNT ONE	PC 182(a)(1)	Check Code
COUNT TWO	BP 7161(c)	
COUNT THREE	BP 7153	
COUNT THIRTEEN	BP 7027.3	16-2-3
COUNT FIFTEEN	PC 182(a)(1)	Check Code
COUNT SIXTEEN	BP 7161(c)	
COUNT EIGHTEEN	BP 7153	

SUMMARY OF CHARGE(S) AND PUNISHMENT(S)

GINO ANTHONY LONG

(DOB: 09/29/1982)

COUNT	CHARGE	PUNISHMENT
COUNT NINE	PC 115(a)	16-2-3
COUNT TEN	PC 118(a)	2-3-4

ATTACHMENT “C”

WALTERS LAW GROUP

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5/17/2021 10:33 AM
Superior Court of California
County of Fresno
By: C. York, Deputy

Attorneys for Plaintiff

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF FRESNO**

RICHARD BARCLAY, an individual,

Plaintiff,

v.

MICHAEL LeBLANC, an individual;
POLVORA, INC., a corporation; and DOES
1-25, inclusive,

Defendants.

Case No 21CECG01399

COMPLAINT FOR:

- 1. BREACH OF FIDUCIARY DUTY;**
- 2. CONVERSION;**
- 3. BREACH OF CONTRACT – AGREEMENT;**
- 4. UNFAIR COMPETITION; AND**
- 5. CONSTRUCTIVE TRUST**

JURY TRIAL DEMANDED

INTRODUCTION

Plaintiff Richard Barclay and Defendant Michael LeBlanc are 50/50 partners in a business called K& M Casinos, Inc. Defendant LeBlanc has engaged in a course of conduct designed to harm Plaintiff Barclay, and benefit LeBlanc's other business ventures, including but not limited to Defendant Polvora, Inc. which LeBlanc has an ownership interest in (but Barclay does not).

LeBlanc has engaged in a pattern and practice of behavior that breaches the duties, fiduciary, contractual and otherwise, that he owes to Barclay. The most egregious act was LeBlanc taking \$700,000 out of the bank account that is held for the benefit of Barclay and LeBlanc. On information and belief, these funds were used to support Defendant Polvora, Inc. which was having financial difficulties and cash flow issues.

Defendant LeBlanc has violated the duties he owes to Plaintiff Barclay, and done so with the cooperation and support of Polvora, Inc. Defendant LeBlanc, and his co-conspirator Polvora, must be held liable. Plaintiff seeks from Defendants not only the return of the \$700,000 (plus prejudgment interest) and punitive damages, but also a constructive trust regarding the \$700,000 to include the benefit and financial interest that was acquired through the use of the \$700,000 (to include an ownership/equity interest in Polvora and its assets).

THE PARTIES

1. Plaintiff Richard Barclay is an individual who resides in Las Vegas, Nevada.

2. Defendant Michael LeBlanc is an individual who resides in Orange County, California.

3. Defendant Polvora, Inc. is a corporation organized under the laws of California. On information and belief, Polvora's principal place of business is Napa County, California.

4. The true names and capacities of Defendants named as DOES 1 through 25, inclusive, whether individual, corporate, associate, or otherwise, are unknown to Plaintiff, who sue these Defendants by fictitious names under California Code of Civil Procedure Section 474. Plaintiff will amend the Complaint to show their true names and capacities when they have been determined.

5. Plaintiff is informed and believes and thereon alleges that each of the Defendants is and at all relevant times was, the agent, representative, and/or employee of each of his, her, its or their

1 co-Defendants, and in committing the acts alleged in this Complaint, was acting within the scope of
2 his, her, its or their authority as these agents, representative, and/or employees, and with the
3 permission and consent of his, her, its or their co-Defendants.

4 6. On information and belief, each of the Defendants worked with and assisted one
5 another in engaging in the misconduct alleged herein. Plaintiff is informed and believes and based
6 thereon alleges that all of the Defendants named herein were in a conspiracy with one another
7 regarding the misconduct alleged herein. The actions taken by each of the Defendants were within
8 the course and scope of this conspiracy and to further the mutual aims of the Defendants. Each
9 Defendant is therefore liable for the actions of and damages caused by each of the other Defendants.

10 JURISDICTION AND VENUE

11 7. Plaintiff is informed and believes that this Court has personal jurisdiction over
12 Defendants as: (a) Defendants are California residents; and (b) the conduct alleged in this Complaint
13 was purposefully directed towards Fresno County, California.

14 8. Venue in this county is proper as Defendants' misconduct was directed at Fresno
15 County, including but not limited to the bank account and money at issue being held in a bank located
16 in Fresno County. The misconduct alleged herein was directed at Fresno County.

17 FACTUAL BACKGROUND

18 9. Plaintiff and Defendant LeBlanc are 50/50 owners in K& M Casinos, Inc. LeBlanc
19 serves as the President and Barclay is Vice President, Secretary, and Chief Financial Officer.

20 10. Barclay and LeBlanc reached certain agreements regarding how the bank account that
21 contained funds owned by both of them would operate. On or about August 22, 2017, Barclay and
22 LeBlanc agreed that any expenditure of funds over \$5,000 would require the signature of two officers.
23 Based upon this agreement, Barclay continued to work in concert with LeBlanc. On information and
24 belief, LeBlanc's promises and representations were fraudulent at the time they were made as they
25 were designed to secure certain actions from Barclay but LeBlanc never intended to comply with such
26 promises and representations.

27 11. LeBlanc engaged in an embezzlement of funds. On or about February 8, 2021,
28 LeBlanc withdrew \$300,000 from the bank account that was held for the benefit of both LeBlanc and

Barclay. On or about March 25, 2021, LeBlanc withdrew \$400,000 from the same bank account. In neither instance did LeBlanc secure Barclay's approval or utilize the funds for the parties' joint business operations.

12. In addition to the loss of \$700,000 itself, Barclay is concerned about the pattern and practice of LeBlanc. After the first conversion of funds, Barclay objected but LeBlanc then did it a second time. This evidences that it was not a mistake or a mistaken understanding of what was proper, but an intentional act by LeBlanc to harm Barclay. Further, the amount of the conversion increased leading Barclay to be concerned about whether the next theft of funds will be \$500,000 or more.

13. The \$700,000 was not taken by LeBlanc for any purpose relating to and was not applied to any joint venture/effort between LeBlanc and Barclay. On information and belief, LeBlanc used this money to fund the operations of Polvora, Inc. and the casino that Polvora (with LeBlanc) is operating.

FIRST CAUSE OF ACTION
Breach of Fiduciary Duty

14. Plaintiff incorporates the preceding paragraphs above as though fully set forth herein.

15. Plaintiff and LeBlanc are equal partners in a business venture. LeBlanc owes a duty to his co-owner, including but not limited to not using his power and authority to benefit himself to the detriment of his co-owner.

16. LeBlanc breached this duty, including but not limited to his improper taking of \$700,000 as discussed above.

17. Plaintiff was injured as a direct and proximate result of LeBlanc's breach of fiduciary duty in an amount to be proven at trial that exceeds \$700,000.00.

18. As a direct and proximate result of Defendant LeBlanc's breach of his fiduciary duties, Plaintiff has been damaged in an amount to be proven at trial. Defendant LeBlanc's breach was a substantial factor in causing Plaintiff's damages.

19. Defendant Polvora assisted and conspired with LeBlanc regarding this breach of fiduciary duty.

20. Plaintiff seeks any and all punitive or exemplary damages to which he is entitled for Defendants' misconduct. Defendants engaged in the alleged conduct with malice, oppression and fraud. Defendants engaged in this conduct with a willful and knowing disregard of Plaintiff's rights and with an intention to injure Plaintiff.

SECOND CAUSE OF ACTION
Conversion

21. Plaintiff incorporates the preceding paragraphs above as though fully set forth herein.

22. Plaintiff had an interest in the \$700,000 in funds that Defendant LeBlanc took, with the assistance and encouragement of Defendant Polvora.

23. Defendants intentionally and substantially interfered with these funds by taking them and preventing Plaintiff from accessing and using such funds.

24. Plaintiff communicated with Defendant LeBlanc and requested on multiple occasions that he return the funds, but LeBlanc refused.

25. Plaintiff never agreed to Defendants taking or keeping these funds and as a result of their unlawful conduct, Plaintiff has suffered and continues to suffer damages in an amount according to proof at trial that will be in excess of \$700,000. Plaintiff also seeks injunctive and other equitable relief to which he is entitled.

26. Plaintiff seeks any and all punitive or exemplary damages to which he is entitled for Defendants' misconduct. Defendants engaged in the alleged conduct with malice, oppression and fraud. Defendants engaged in this conduct with a willful and knowing disregard of Plaintiff's rights and with an intention to injure Plaintiff.

THIRD CAUSE OF ACTION
Breach of Contract - Agreement

27. Plaintiff incorporates the preceding paragraphs above as though fully set forth herein.

28. On or about August 22, 2017, Plaintiff and LeBlanc entered into an agreement that any expenditure of funds over \$5,000 from the bank account that they both had an interest in would require the signature of two officers.

29. Based upon this agreement, Plaintiff continued to work with LeBlanc and permitted the deposit of funds into an account upon which they are both signatories. Plaintiff has performed materially all of his obligations under the terms of that agreement.

30. LeBlanc has breached the terms of that agreement. This includes, but is not limited to, the withdrawals of the \$300,000 and \$400,000 detailed above. On information and belief, Defendant Polvora encouraged, induced and assisted LeBlanc in making these unlawful cash withdrawals.

31. As a direct and proximate result of Defendants' misconduct, Plaintiff has suffered and will continue to suffer damages in an amount to be proven at trial. Defendants' breach was a substantial factor in causing Plaintiff's damages.

FOURTH CAUSE OF ACTION
Unfair Competition
All Defendants

32. Plaintiff incorporates the preceding paragraphs above as though fully set forth herein.

33. Defendants' conduct as set forth in this Complaint constitutes unlawful, unfair and/or fraudulent business act(s) or practice(s) within the meaning of Business and Professions Code §17200 et. seq.

34. Defendants' unlawful, unfair and/or fraudulent business practices have yielded them an unfair competitive advantage.

35. These unlawful, unfair and/or fraudulent business acts or practices have caused damage to Plaintiff. Plaintiff is entitled to full restitution and/or disgorgement of all revenues, earnings, profits, compensation and benefits that may have been obtained by Defendants as a result of their unfair or fraudulent business acts or practices, including but not limited to any use or investment of such funds by LeBlanc and/or Polvora.

36. Unless restrained, Defendants are likely to continue to engage in the unlawful, unfair and/or fraudulent business acts or practices, in violation of Business and Professions Code § 17200 et. seq., thus tending to render judgment in the instant action ineffectual. Thus, Plaintiff also seeks injunctive relief.

FIFTH CAUSE OF ACTION
Constructive Trust
All Defendants

37. Plaintiff incorporates the preceding paragraphs above as though fully set forth herein.

38. As detailed herein, Defendant LeBlanc and Defendant Polvora engaged in tortious misconduct, including but not limited to conversion, breach of fiduciary duty, a violation of trust, undue influence, and fraud.

39. This wrongful conduct included Defendants wrongfully seizing ownership and control over \$700,000.

40. On information and belief, this \$700,000 was used to fund the operations of Polvora, including but not limited to the casino.

41. The \$700,000 properly belonged to Plaintiff and Defendants had no right to use such funds. Defendants' use of such funds prevented Plaintiff from his use of the funds, including but not limited to his own business ventures.

42. As a result of such misconduct, a constructive trust is imposed upon Defendants. This includes, but is not limited to, the duty and obligation to hold the \$700,000 for the benefit of Plaintiff. Plaintiff is thereby entitled to the proceeds and benefit of the \$700,000, including but not limited to an interest in Polvora, Inc., Polvora's operations (including profits from such operations), and Polvora's assets. The imposition of such a constructive trust, for the benefit of Plaintiff, is necessary to prevent unjust enrichment and to prevent Defendants from obtaining an advantage or otherwise benefit from their misconduct.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment against Defendants as follows:

- a. For judgment in favor of Plaintiff and against Defendants on all causes of action;
- b. For all actual, compensatory, consequential, and incidental losses and damages, according to proof, and as allowed by applicable law;
- c. The imposition of a constructive trust for the benefit of Plaintiff regarding any and all usage of the \$700,000 that was unlawfully taken and used by

Defendants, including but not limited to an interest in Polvora, Inc., Polvora's operations (including profits from such operations), and Polvora's assets;

- d. For punitive or exemplary damages;
- e. For preliminary and permanent injunctive and equitable relief, including regarding Defendants' unfair competition and other wrongful conduct as applicable;
- f. For restitution to the extent permitted by law;
- g. For disgorgement of profits, benefits and compensation;
- h. For pre-judgment and post-judgment interest;
- i. For attorneys' fees and costs of suit incurred herein; and
- j. For such other and further relief as the Court may deem appropriate.

DATED: May 17, 2021

Submitted by,

WALTERS LAW GROUP

s/Christopher L. Walters, Esq.

CHRISTOPHER L. WALTERS, ESQ.

Attorneys for Plaintiff

ATTACHMENT “D”

1 BUCHALTER
A Professional Corporation
2 ROBERT S. MCWHORTER (SBN 226186)
JACQUELINE N. VU (SBN 287011)
3 500 Capitol Mall, Suite 1900
Sacramento, California 95814
4 Telephone: (916) 899-1099
Email: rmcwhorter@buchalter.com
5 jvu@buchalter.com

6 Attorneys for Petitioner,
MICHAEL LEBLANC
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF ORANGE**
10

11 In re:

12 K& M Casinos, Inc.
13
14
15

CASE NO.

**VERIFIED PETITION FOR
APPOINTMENT OF PROVISIONAL
DIRECTOR**

(Cal. Corp. Code § 308)

16 Petitioner, Michael LeBlanc ("LeBlanc"), states:

17 **Parties**

- 18 1. LeBlanc is an individual who resides in Orange County, California.
19 2. LeBlanc is the holder of fifty percent (50%) of the voting power of K& M
20 Casinos, Inc. ("K&M"), a corporation organized and existing under the laws of the State of
21 California, as defined under California Corporations Code section 194.5. A true and correct copy
22 of the Stock Transfer Ledger for K&M dated August 22, 2017 is attached to this Petition as
23 **Exhibit A** is incorporated by reference. K&M filed Articles of Incorporation on August 22, 2017,
24 a true and correct copy of which is attached to this Petition as **Exhibit B** is incorporated by
25 reference.
26 3. LeBlanc is a director and chief executive officer of K&M. On March 6, 2018 and
27 June 15, 2020, K&M filed Statements of Information confirming LeBlanc in these positions.
28 True and correct copies of the Statements of Information are attached to this Petition as

1 **Exhibits C and D** and are incorporated by reference. LeBlanc has, at all relevant times, served
2 as K&M's President.

3 4. K&M is authorized by its articles to have, and does have, a board of two (2)
4 directors. The other current director is Richard Kevin Barclay ("Barclay"). Barclay holds the
5 remaining fifty percent (50%) of the voting power of K&M as defined under Corporations Code
6 section 194.5. Barclay serves K&M's Chief Financial Officer and Secretary.

7 5. LeBlanc is informed and believes, and, on this basis alleges, that Barclay is an
8 individual who resides at 2241 East Hogan Avenue, Fresno, California 93730-5148.

9 **Jurisdiction and Venue**

10 6. This Court has jurisdiction over this matter under California Corporations Code
11 section 308 and under Article VI, section 10, of the California Constitution.

12 7. K&M's principal executive office is located at 8141 E. Kaiser Blvd., Suite 213,
13 Anaheim, California 92808. As such, venue is proper in this Court because the principal
14 executive office is located in Orange County, California. Cal. Corp. Code §§ 177, 308(a).

15 **FIRST CAUSE OF ACTION**

16 **Appointment of Provisional Director** 17 **Pursuant to Corporations Code Section 308**

18 8. LeBlanc incorporates by reference paragraphs 1 through 7 of this Petition as if set
19 forth in full.

20 9. California Corporations Code section 308 authorizes a court to appoint a
21 provisional director if a corporation has an even number of directors who are equally divided and
22 cannot agree as to the management of the corporation's affairs so that the corporation's business
23 can no longer be conducted to advantage, or there is danger that the corporation's property and
24 business will be impaired or lost. Cal. Corp. Code § 308(a). A court may appoint a provisional
25 director to break the deadlock, regardless of the terms of the articles or bylaws. *Ibid.* An action
26 for such appointment may be brought by any director or by the holders of not less than one-third
27 of the voting power in the corporation. *Id.*; see *Jarvis v. Jarvis*, 33 Cal. App. 5th 113, 143, (2019).
28

10. LeBlanc is both a director and shareholder, holding fifty (50%) of K&M's voting power, and requests that this Court appoint a provisional director for K&M. K&M's two directors, LeBlanc and Barclay, are equally divided, and cannot agree as to the management of K&M's affairs. The circumstances creating this division are described below.

A. THE DIRECTORS' DEADLOCK

11. Since approximately 2018, K&M conducted business as a gambling establishment under the name "500 Club Casino." This gambling establishment operates 20 card tables and employs over 240 individuals at the cardroom located at 771 W. Shaw Avenue, Clovis, California 93612.

12. K&M, LeBlanc and Barclay each hold state gambling licenses issued by the California Gambling Control Commission ("Commission") (License Nos: GEOW-003890, GEOW-003891, and GEOW-003892, respectively). These licenses are valid through January 31, 2023.

13. Starting in 2020, LeBlanc and Barclay's relationship deteriorated. Since October or November 2020, Barclay has refused to communicate with LeBlanc about K&M's business operations. Instead, he communicates with LeBlanc about operations through an intermediary, Kade R. Walters ("Walters"), 500 Club Casino's general manager.

14. Under section 5.7.1 of the Bylaws, LeBlanc, as President, serves as the "general manager" of K&M, with the authority to "supervise, direct and control the business affairs of" K&M. A true correct copy of the Bylaws is attached to this Petition as **Exhibit E** and is incorporated by reference. Pursuant to this authority, LeBlanc, as President, instructed Walters in mid-November 2020 to add a jackpot for patrons and to increase the collection rates for its Third Party Provider of Proposition Player Services ("TPPPPS"), KB Ventures.¹ LeBlanc instructed Walters to take these measures to increase K&M's revenue to offset losses resulting from State-mandated closures of gambling establishments due to the COVID-19 pandemic.

¹ A TPPPPS is a business that provides services in and to a gambling establishment under an agreement with a gambling establishment to play as a participant in any controlled game that has a rotating player-dealer position, as permitted by Penal Code section 330.11. An owner of a TPPPPS must apply for and obtain a license issued by the Commission. See Cal. Bus. & Prof. Code § 19984; Cal. Code Regs., tit. 4, § 12201.

15. KB Ventures is solely owned by Barclay's sister, Kerry Mae Burrough, formerly known as Kerry Mae Barclay ("Burrough").

16. In mid-November 2020, Barclay inappropriately directed Walters to disregard LeBlanc's instructions to refrain from increasing K&M's collection rates, and from adding jackpots, despite LeBlanc's express authority under the Bylaws to implement such changes.

17. When LeBlanc tried to communicate with Barclay about his countermanding directions, Barclay refused to interact with LeBlanc. Instead, Barclay emailed Walters on November 19, 2020, to complain that LeBlanc "continu[ed] to text and email" him and to request that Walters notify LeBlanc to "work through management" (i.e., through Walters), and to refrain from communicating directly with him. A true and correct copy of this email is attached to this Petition as **Exhibit F** and is incorporated by reference.

18. On November 22, 2020, Barclay emailed Walters and again instructed him to refrain from increasing K&M's collection rates and from adding jackpots. A true and correct copy of this email is attached to this Petition as **Exhibit G** and is incorporated by reference. In this November 22nd email, Barclay acknowledged that he and LeBlanc are deadlocked, stating: "We both have to agree on things in order for there to be changes . . . *Mike does not have mutual consent to [increase rates and to add a jackpot]. This means he cannot do it. . . . He does not have my consent.*" See Exhibit G [emphasis added].

19. LeBlanc is informed and believes, and, on this basis alleges, that Barclay deliberately refused to increase collection rates because he wanted to benefit his sister, Burrough, who owned KB Ventures and served as K&M's TPPPPS, thereby causing K&M to lose substantial revenue and impairing K&M's ability to grow its business.

20. On November 23, 2020, LeBlanc emailed Barclay and objected to Barclay's wrongful interference with LeBlanc's authority as K&M's President. He also requested that Barclay work cooperatively with him and proposed that they have lunch or dinner to resolve their differences. A true and correct copy of LeBlanc's November 23, 2020 email is attached to this Petition as **Exhibit H** and is incorporated by reference. Barclay ignored this proposal and refused to meet with LeBlanc.

21. From December 6, 2020 to February 2, 2021, K&M's cardroom operations were closed due to State-mandated Covid-19 restrictions.

22. After reopening, LeBlanc renewed his efforts to cooperatively manage K&M's business affairs. However, despite these efforts, Barclay refused to communicate with LeBlanc.

23. Under section 3.9.1 of the Bylaws, a special meeting of the Board of Directors may be called at any time for any purpose by the President. See Exhibit E, § 3.9.1, p. 11. On April 26, 2021, LeBlanc, as President, timely delivered a Notice of Special Meeting of the Board of Directors to Barclay (the "First Special Meeting Notice") via email, mail and telephone. A true and correct copy of the First Special Meeting Notice is attached to this Petition as **Exhibit I** and is incorporated by reference. The First Special Meeting Notice scheduled a special meeting of the Board of Directors of K&M for May 4, 2021 at 11:00 a.m.

24. Upon receipt of the First Special Meeting Notice, Barclay continued to refuse to communicate directly with LeBlanc. Instead, Barclay continued to request that Walters act as intermediary, and insisted that LeBlanc speak "through management" (i.e., through Walters). At Barclay's direction, Walters sent LeBlanc an email on April 27, 2021, requesting that the special meeting of the Board of Directors be moved from May 4, 2021 to May 3, 2021 at 11:00 a.m. Walters indicated that Barclay wanted him to attend the directors meeting even though he was not a director. Walters stated:

Memo,

Kevin asked me to respond to your email from yesterday since the two of you don't speak and agreed to speak through management. He is in receipt of your letter, and is fine with conducting the meeting remotely next week, but cannot do Tuesday due to the short notice. He can meet Monday at 11am or if need be he can do Sunday at 6pm? Kevin has also requested that I be on the call to ask any potential questions or to mediate and keep things diplomatic. Would it be okay with you? If so, I can set up a Zoom call and invite you both once you decide on a date and time. This might help keep things productive and moving forward. Please let me know what date and time work for you, and we can get it scheduled?

Thank you,
Kade

25. LeBlanc accommodated Barclay's request to reschedule the directors meeting from May 4, 2021 to May 3, 2021 at 11:00 a.m., but rejected Barclay's request to have Walters attend the directors meeting. On April 28, 2021, LeBlanc delivered a modified Notice of Special

Meeting of the Board of Directors to Barclay (the "Second Special Meeting Notice") via email, mail, and telephone, rescheduling the directors meeting for May 3, 2021 at 11:00 a.m. A true and correct copy of the Second Special Meeting Notice is attached to this Petition as **Exhibit J** and is incorporated by reference. The Second Special Meeting Notice set forth the following agenda:

Improvement of Financial Performance, Revenue Enhancement, and Expense Reduction. The Board of Directors will discuss, consider and vote upon measures to improve the financial performance, enhance revenues and reduce expenses of the Corporation, including, without limitation, (i) modification of collection rates with its Third Party Providers of Proposition Player Services and (ii) the implementation of jackpots.

See Exhibit J.

26. On April 28, 2021, Barclay emailed LeBlanc, acknowledging receipt of the Second Special Meeting Notice and again requesting that Walters attend the directors meeting due to their "difficulty communicating with each other." A true and correct copy of this email is attached to this Petition as **Exhibit K** and is incorporated by reference.

27. On April 30, 2021, Barclay, through his counsel, notified LeBlanc that he would not attend the special meeting of the board of directors on May 3, 2021, even though LeBlanc rescheduled the meeting to accommodate him.

28. On May 3, 2021 at 11:00 a.m., a special meeting of the board of directors was held pursuant to the Second Special Meeting Notice. However, Barclay failed to appear. Under section 3.11.1 of the Bylaws, a majority of the authorized number of directors is required to constitute a quorum for the transaction of business. See Exhibit E, § 3.11.1, p. 12. Due to Barclay's failure to appear, the board of directors for K&M did not have a quorum and could not transact any business, thereby preventing K&M from conducting its business and/or creating a danger that K&M's property and business could be impaired or lost.

29. As set forth above, LeBlanc and Barclay, as the sole directors of K&M, cannot agree as to the management of K&M's affairs. They do not agree on fundamental business decisions. Further Barclay's refusal to communicate directly with, or to solely attend directors meetings with LeBlanc prevents K&M from conducting business.

B. THIS COURT SHOULD APPOINT A PROVISIONAL DIRECTOR

30. Unless a provisional director is appointed, K&M can no longer be conducted to

1 advantage and the property and business of K&M will be impaired or lost because of the
 2 deadlock of the board. LeBlanc believes that K&M must implement reasonable measures, such
 3 as increasing collections, establishing contestant jackpots, as well as other practices to address the
 4 challenges facing K&M, especially given the State-mandated closures due to the COVID-19
 5 pandemic. Barclay disagrees and refuses to communicate with LeBlanc, thereby creating a
 6 deadlock. If a provisional director is not appointed, LeBlanc justifiably fears that K&M will lose
 7 substantial revenue and market share, thereby hampering its ability to compete in the
 8 marketplace. By not increasing collection rates and by not establishing jackpots, K&M will be
 9 deprived of the additional revenue that this increase would likely generate. Further, K&M's
 10 disagreement undermines K&M's competitiveness and effectiveness as a business by placing a
 11 nonshareholder and nondirector -- K&M's general manager -- in the middle of the directors'
 12 dispute. In short, Barclay's disagreements with LeBlanc and the divided management of K&M
 13 will cause irreparable harm in the form of lost customers and lost profits if the present situation
 14 continues.

15 31. LeBlanc requests that this Court appoint Joy Harn ("Harn") as a provisional
 16 director pursuant to California Corporations Code section 308, or such other person as this Court
 17 deems appropriate. Harn is an impartial person who is neither a shareholder nor creditor of
 18 K&M, and who is not related by consanguinity or affinity within the third degree, according to
 19 common law, to any of the present directors of K&M or to any present judge of the above-entitled
 20 court.

21 32. Harn is an attorney licensed to practice law in the State of California who
 22 specializes in gaming law. From 1996 to 2012, she served as the Vice President & General
 23 Counsel for The Bicycle Casino, a cardroom in Bell Gardens, California that, prior to COVID-19
 24 closures, employed approximately 1550 individuals and operates 185 card tables. The Bicycle
 25 Casino features a myriad of games including: Blackjack, Texas Hold 'Em, Seven Card Stud,
 26 Omaha, Mexican Poker, Pan, Pai Gow Poker, Pai Gow Tiles, Pan-9, Three Card Poker and
 27 Baccarat. From 2012 to the present, Harn owned and operated the Law Offices of Joy Fernbach
 28 Harn, which allowed her to continue to serve as the General Counsel for The Bicycle Casino and

1 to represent other cardrooms in the State of California. Harn is a member of the International
2 Masters of Gaming Law, a non-profit association of gaming attorneys, regulators, and executives
3 in gaming.

4 33. Harn is willing to serve as a provisional director as set forth in the Consent to
5 Appointment attached to this Petition as **Exhibit L** and is incorporated by reference. As a
6 condition to her consent, Harn requested compensation of \$450 per hour for the time spent
7 serving as provisional director. In addition, she requested that K&M indemnify her from any
8 liability associated with acting as provisional director. K&M's Articles of Incorporation, Bylaws
9 and the California Corporations Code permit contracts between K&M and its agents with respect
10 to the indemnification of those persons. See Exhibit B, ¶¶ 5, 6; Exhibit E, § 3.15; Cal. Corp. Code
11 § 317(b), (c), and (e).

12 34. The Gambling Control Act, California Business & Professions Code 19805 et seq.
13 ("GCA"), and its implementing regulations, requires that every person, who as owner or
14 employee, operates, carries on, conducts, maintains or exposes for play any controlled game in
15 California shall apply for and maintain a valid state gambling license or key employee license.
16 Cal. Bus. & Prof. Code § 19850. As such, the GCA mandates that a corporation require its
17 director or key employee to apply for a gambling license within thirty (30) calendar days after he
18 or she becomes a director or key employee. Cal. Bus. & Prof. Code §§ 19805(i), 19833(a).
19 Accordingly, if this Court appoints a provisional director, the provisional director must comply
20 with the provisions of the GCA, including, filing the appropriate application to the extent
21 necessary.

22 35. Harn currently holds a portable key employee license pursuant to Business and
23 Professions Code section 19854(c)(2), entitling her to work as a key employee in any key
24 employee position in more than one gambling establishment. As such, she may be able to serve as
25 a provisional director without the need of filing any additional application.
26
27
28

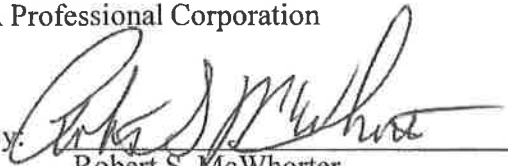
1 **WHEREFORE**, Petitioner, Michael LeBlanc prays that this Court enter a judgment or an
2 order:

- 3 A. entering an order to show cause why a provisional director should be appointed;
4 B. appointing Joy Harn as a provisional director or other such other impartial person
5 as this Court deems appropriate pursuant to Corporations Code section 308 to break the deadlock
6 on the board of directors of K&M;
7 C. entering such terms as this Court deems appropriate in appointing a provisional
8 director, including requiring K&M to indemnify the provisional director and fixing
9 compensation;
10 D. directing the provisional director to comply with all requirements for licensure
11 under the GCA and its implementing regulations, including, but not limited to, applying for a
12 State gambling license or key employee license to the extent required; and
13 E. granting other relief as is just and equitable.

14 A proposed judgment regarding this Petition is attached as **Exhibit M** and is incorporated by
15 reference.

16 DATED: May 12, 2021

BUCHALTER
A Professional Corporation

17
18
19 By: 
Robert S. McWhorter
Attorney for Petitioner,
MICHAEL LEBLANC

From: [Mary Lueros](#)
To: [Clerk](#)
Subject: Fwd: Card Room
Date: Monday, August 16, 2021 5:38:07 PM

Mary Lueros

Begin forwarded message:

From: Skip Keyser <[REDACTED]>
Date: August 16, 2021 at 4:47:48 PM PDT
To: Mary Lueros <mlueros@cityofnapa.org>
Cc: Scott Sedgley <SSedgley@cityofnapa.org>, Liz Alessio <lalessio@cityofnapa.org>, Beth Painter <bpainter@cityofnapa.org>, bnavarez@cityofnapa.org
Subject: Card Room

You don't often get email from [REDACTED]. [Learn why this is important](#)

[EXTERNAL]

Hi Mary - while Jean and I live in the county, we do own property in the city (School and Third) so I guess I can comment on the card room issue. In this regard, I agree with your position as stated in today's NVR.

No doubt the city council I'll be inundated with comments along the line of "...if you don't approve twenty-four hour card room operation, it will destroy Western civilization as we know it..." but stick to your guns.

Or, to riff off of (and with apologies to) Kenny Rogers, ' Hold 'em, don't fold 'em.'

Regards,

Skip Keyser

From: [Tim Martin](#)
To: [Bernie Narvaez](#); [Mary Luros](#); [Beth Painter](#); [Liz Alessio](#); [Scott Sedgley](#); [Michael Allen](#); [Clerk](#)
Subject: Ace and Vine
Date: Monday, August 16, 2021 5:47:03 PM

You don't often get email from tim@timtusk.com. [Learn why this is important](#)

[EXTERNAL]

Deer Mayor and Council

I am writing in support of Ace and Vines request to do business 24/7. I am a local Napa resident and I think having an option for quality late night or early morning dining and gaming is nothing but a benefit to the city.

I know ownership has done their best to be invested in the community and provide a safe fun amenity for the valley.

Thank you for your consideration,

Timothy Martin
CEO
TimTusk
www.timtusk.com
tim@timtusk.com
Instagram:@timtusk

From: [Garrett Boles](#)
Subject: Ace & Vine // 24 hours
Date: Tuesday, August 17, 2021 8:35:15 AM

You don't often get email from [REDACTED] [Learn why this is important](#)

[EXTERNAL]

Dear County Leaders,

As a business operator & local napa valley resident, I have found much added benefit to having Ace & Vine as a part of our close community. The quality of food is as good as any other offering in the valley, but the unique dishes really make it memorable.

Between the dedicated ownership and community driven approach that Ace & Vine has taken, I would suggest that we support them in serving our community 24-hours a day.

Having a great place to eat 24-hours a day would be a great value add for all of us in the community.

Garrett Boles
Dir. of Hospitality
ONEHOPE winery

From: [Michael Leblanc](#)
To: [Clerk](#)
Subject: Letters of Support for A&V
Date: Tuesday, August 17, 2021 11:20:22 AM
Attachments: [Letters in support of Ace & Vine 4832-8807-7046 v.1.pdf](#)

You don't often get email from [REDACTED]

[Learn why this is important](#)

[EXTERNAL]

Dear City Clerk:

Enclosed with this email is 74 letters in support from local Napans regarding Ace & Vine's request to operate on a 24-hour basis. We submit this package of letters for the Council's agenda this evening (Item 13.A). Thank you for your attention to the request.

Mike LeBlanc



August 17, 2021

City Clerk
955 School Street
Napa, CA 94559

Re: Napans in support of Ace & Vine

Dear City Clerk:

Enclosed with this correspondence is approximately 74 letters in support of Ace & Vine's request to operate on a 24-hour basis. These letters were authored by the individuals below, who all reside in the City of Napa.

- | | | |
|---------------------|-----------------------|-------------------------|
| 1. Marco A. Rendon | 26. Daisey Quintero | 51. Ashley Lagrimas |
| 2. Belle DeHippo | 27. Miguel Plancarte | 52. Stephen Evans |
| 3. Julio Deharo | 28. Juan Lopez | 53. Veravann Sun |
| 4. Johnny Wilson | 29. Omar Alcantar | 54. Adam Hernandez |
| 5. Tom Walters | 30. Ashlin E. Pittman | 55. Devin Johnson |
| 6. Nicholas French | 31. Mike Deleng | 56. Kurtis Blueford |
| 7. Jeff Woo | 32. Kevin Albritton | 57. Ben Mori |
| 8. Andrew Ehlow | 33. Manuel De La Pena | 58. Chelsey Ginter |
| 9. Roland Dario | 34. Garrett Lyon | 59. Brittany Hudson |
| 10. Gelene Sharpen | 35. Summer Vener | 60. Michael Fjermestall |
| 11. Macey Horne | 36. Nick Orsi III | 61. Mollie Poole |
| 12. Jaime Roscon | 37. Ryan Russell | 62. Maison Poole |
| 13. Jordan E. White | 38. Myles McGinnis | 63. Ammon Norstrom |
| 14. Dennis Ludoy | 39. Rudolph Villegas | 64. Frank Eose |
| 15. Robert Valdez | 40. Raymond Neville | 65. Kendra Ceron |
| 16. Jorge Curmera | 41. Ariana Ng | 66. Andrea McGoldrick |
| 17. Andrew Wells | 42. Dan Jackson | 67. Carlos Navarro |
| 18. Josue Trujillo | 43. Tyler Hatter | 68. Mark Pickens |
| 19. Lumael Gonzalez | 44. Chris Sarzll | 69. Sam Jepsen |
| 20. Daniel Lopez | 45. Don Smith | 70. Oscar Gutierrez |
| 21. Nicholas Lenz | 46. John Clemons | 71. Cotton Fisher |
| 22. Wilfred Brucker | 47. Michael Galyen | 72. Steve Amery |
| 23. Alan Culbert | 48. Joel Horazy | 73. Victor Caballos |
| 24. John Patterson | 49. Ryan Searles | 74. Cory Walter |
| 25. Justin Moon | 50. Joe Park | |

Sincerely,

Michael LeBlanc



To whom it may concern,

I Marco A. Frondin am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I Bare Defrippa, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I Julio Deharo, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I Johnny Wilson am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I TOM WALTERS, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I Nicholas French, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I SEF WOO, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I Andrew Ehlow am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I ROBERT DARIO am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

Gelene Sharpe am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I Macey Horne, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

A handwritten signature in blue ink that reads 'Macey Horne'.



To whom it may concern,

I Jaime Rascon, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

Jaime Rascon



To whom it may concern,

I JORDAN E. WHITE am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

Dennis Luby, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I ROBERT VALEZ, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I Jorge Cordero am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



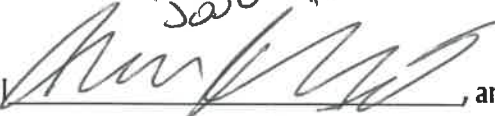
To whom it may concern,

I Andrew Wells, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

Josue Trujillo


, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,





To whom it may concern,

I Lomae Gonzalez am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



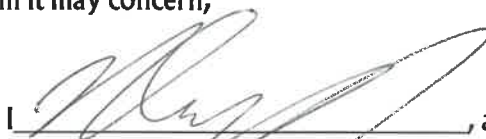
To whom it may concern,

I Daniel Lopez, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,


I, Nicholas Lenz, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,


Nicholas Lenz



To whom it may concern,

I WILFREDO BRUCKER, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

Alan Culbert, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

Alan Culbert



To whom it may concern,

I John Porter, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

A handwritten signature in black ink, appearing to be 'John Porter'.



To whom it may concern,

I Justin Moen, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

A handwritten signature in black ink, consisting of a large loop followed by a horizontal line that tapers off to the right.



To whom it may concern,

I Daisy Quintero, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

Daisy Quintero



To whom it may concern,

I Miguel Plancarte, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours, Miguel Plancarte



To whom it may concern,

I Juan Lopez, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I, Omar Alcantar, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

A handwritten signature in black ink, appearing to read 'Omar Alcantar', written in a cursive style.



To whom it may concern,

I, Ashli Pittman, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

Ashli Pittman



To whom it may concern,

Mike DeLoz, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I, Kevin Albrecht, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I MANUEL DELA PENA, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

MANUEL DE LA PENA




To whom it may concern,

I Gareth Lyon, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

Gareth Lyon



To whom it may concern,

I, Summer Vener, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

A handwritten signature in dark ink, appearing to read 'Summer Vener', written in a cursive style.



To whom it may concern,

I A. Orsi III, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,


I, Ryan Russell, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

A handwritten signature in black ink that reads 'Ryan Russell'.



To whom it may concern,

 am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

MYLES MCGINNIS
707-225-1194



To whom it may concern,

I Rudolph Villegas, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I Raymond Neville, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

A handwritten signature in black ink, appearing to be 'RN' or 'Raymond Neville', written in a cursive style.



To whom it may concern,

I, Ariana Ng, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I DAN JACKSON, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I Tyler Hatter, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

A handwritten signature in black ink, appearing to read 'Tyler Hatter', is written below the 'Respectfully yours,' text. The signature is fluid and cursive, with a long horizontal stroke extending to the right.



To whom it may concern,

I Chris Small, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I Don Smull, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

Don Smull



To whom it may concern, *JOHN CLEMONS*

I *J. Clemons*, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I, Michael Gahen am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

A handwritten signature in black ink, appearing to read 'MG', is written over a horizontal line.



To whom it may concern,

I Joel Horazy, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

A handwritten signature in black ink, appearing to read 'Joel Horazy', is written over a light blue horizontal line.



To whom it may concern,

I Ryan Searles, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

A handwritten signature in black ink, appearing to read 'Ryan Searles', with a long horizontal flourish extending to the right.



To whom it may concern,

I Joe Park, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

A handwritten signature in black ink that reads 'Joe Park'.



To whom it may concern,

I ASHLEY LAGRIMAS, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I Stephen Evans, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I VERAVANN SUN, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I Adam Hernandez, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

Adam Hernandez



To whom it may concern,

I Devin Johnson, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

A handwritten signature in black ink, appearing to read 'Devin Johnson', with a long horizontal flourish extending to the right.



To whom it may concern,

I Kurtis Blueford, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their request to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. Please grant Ace and Vine's request to operate 24 hours seven days a week and support this local business.

Respectfully yours,

A handwritten signature in blue ink, appearing to read 'K. Blueford', is written over the 'Respectfully yours,' text.



To whom it may concern,

I, Bean Mori, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their request to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. Please grant Ace and Vine's request to operate 24 hours seven days a week and support this local business.

Respectfully yours,

A handwritten signature in black ink, appearing to be 'Bean Mori', with a long horizontal flourish extending to the right.



To whom it may concern,

I, Chesley Ginter, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their request to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. Please grant Ace and Vine's request to operate 24 hours seven days a week and support this local business.

Respectfully yours,



To whom it may concern,

Brittany Hudson, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their request to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. Please grant Ace and Vine's request to operate 24 hours seven days a week and support this local business.

Respectfully yours,

A handwritten signature in black ink that reads 'Brittany Hudson'. The signature is written in a cursive, flowing style.



To whom it may concern,

Michael Fjermestad, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their request to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. Please grant Ace and Vine's request to operate 24 hours seven days a week and support this local business.

Respectfully yours,



To whom it may concern,

I, Mollie Poole, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their request to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. Please grant Ace and Vine's request to operate 24 hours seven days a week and support this local business.

Respectfully yours,



To whom it may concern,

I Mason Poole am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their request to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. Please grant Ace and Vine's request to operate 24 hours seven days a week and support this local business.

Respectfully yours,



To whom it may concern,

I, Ammon Norstrom, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their request to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. Please grant Ace and Vine's request to operate 24 hours seven days a week and support this local business.

Respectfully yours,



To whom it may concern,

I FRANK EOSE., am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their request to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. Please grant Ace and Vine's request to operate 24 hours seven days a week and support this local business.

Respectfully yours,



To whom it may concern,

I Kendra Ceron, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their request to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. Please grant Ace and Vine's request to operate 24 hours seven days a week and support this local business.

Respectfully yours,

A handwritten signature in dark ink, appearing to be 'Kendra Ceron', is written over the 'Respectfully yours,' text.



To whom it may concern,

I Andrea McGoldrick, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their request to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. Please grant Ace and Vine's request to operate 24 hours seven days a week and support this local business.

Respectfully yours,

Andrea McGoldrick



To whom it may concern,

Carlos Navarro, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their request to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. Please grant Ace and Vine's request to operate 24 hours seven days a week and support this local business.

Respectfully yours,



To whom it may concern,

I Mark Pickens, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their request to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. Please grant Ace and Vine's request to operate 24 hours seven days a week and support this local business.

Respectfully yours,

A handwritten signature in black ink, appearing to be 'M. Pickens'.



To whom it may concern,

I Sam Tepsen, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I Oscar Gutierrez, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I Colton Fisher, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I STEVE AMERY, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

A handwritten signature in blue ink, appearing to read 'Steve Amery', is written over the 'Respectfully yours,' text.



To whom it may concern,

I Vicente Ceballos, am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,



To whom it may concern,

I Corey Watten am writing on behalf of Ace and Vine Restaurant and Cardroom to show my support for their motion to operate 24 hours. I have been a patron of Ace and Vine and have come to see their value in our community. I request the city to allow Ace and Vine to operate 24 hours seven days a week.

Respectfully yours,

CITY OF NAPA
CITY CLERK

2021 AUG 17 PM 6:16



August 17, 2021

Napa City Council
955 School Street
Napa, CA 94559

Dear Councilmembers:

Changes are rapidly taking place in my neighborhood and it is clear that our Napa Building Code is woefully inadequate and out of date. It does not protect our residents fairly from those who seek to build and flip a property for maximum profit, no matter the cost to neighbors. I have such a project underway next to me. I have learned that a project that qualifies as a "remodel" can be a blank check to the builder. Almost overnight, the old house was demolished, WITHOUT NOTIFICATION TO NEIGHBORS (not required by our code), and a much larger expanded footprint appeared. Then 1' higher walls were constructed. Finally, roof trusses were craned in creating a 3' elevation gain over the roof of the house it replaced – the "MEGA ROOF" as the neighbors call it. That completely obstructed my view of the West Hills, a view that had been enjoyed for 70 years. Yet to do that is apparently legal under our current Building Code, and that is wrong. It is a transfer of assets from one property owner to another WITHOUT CONSENT. Loss of view devalues my property.

Please update our current codes to reflect today's building climate, to protect against exploitation. Loopholes should be closed so that neighbors are notified when a proposed remodel of a single-family home includes a roof height greater than the existing one as well as an expanded footprint plan. If a proposed new roof height is higher than the existing home, poles should be erected to visually show neighbors what is planned. This transparency of plans of the speculative remodel next door at 5 Lutge Court would have given me a chance to request poles and voice concerns over the 3' higher roof line, which has taken my view.

Yours truly,

A handwritten signature in cursive script, appearing to read 'E. Vare', written over a horizontal line.

Elsa M. Vare

A handwritten signature in cursive script, appearing to read 'M. J. Gaines', written over a horizontal line.

Milton J. Gaines

From: [Eric Smaldino](#)
To: [Clerk](#)
Cc: [Bernie Narvaez](#)
Subject: Ace and Vine Support
Date: Wednesday, August 18, 2021 7:48:29 AM

[You don't often get email from [REDACTED] Learn why this is important at <http://aka.ms/LearnAboutSenderIdentification>.]

[EXTERNAL]

To whom it may concern,

My name is Eric Smaldino, I am a local business owner, I wish to voice my support for Ace and Vine to be allowed to operate their card room 24/day. I have visited their restaurant and property and found it to be a professional, well run operation. I see no issues with the card room being open 24 hours/day.

Sincerely,
Eric Smaldino

Sent from my iPhone