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CENTER FOR ENVIRONMENTAL HEALTH

**ENDORSED
FILED
ALAMEDA COUNTY**

JUL 20 2007

CLERK OF THE SUPERIOR COURT
By BARBARA LAMOTTE
Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

9 CENTER FOR ENVIRONMENTAL HEALTH,)
a non-profit corporation,)

10 Plaintiff,)

11 v.)

12)
13 GAMING PARTNERS INTERNATIONAL)
USA; BLUE CHIP COMPANY, LLC; CLOVIS)
14 500 CLUB GENERAL PARTNERSHIP;)
LEWIS & LEWIS dba CAMEO CLUB;)
15 CAPITOL CASINO; CASINO POKER CLUB,)
INC.; ERNEST LEE SCHMIEDT dba CASINO)
16 REAL; S&S GAMING, INC. dba CLUB)
CARIBE; CLUB ONE CASINO, INC.;)
17 CALIFORNIA COMMERCE CLUB, INC.;)
KERN COUNTY ASSOCIATION, L.P. dba)
18 GOLDEN WEST CASINO; HUSTLER)
CASINO; ALBERT CIANFICHI dba KELLY'S;)
19 LAKE BOWL CARDROOM; PETER MATT)
MIKACICH dba LIMELIGHT CARD ROOM;)
20 POINT-WALKER, INC. dba LUCKY DERBY)
CASINO; MORTIMER'S, INC.; THE)
21 NINETEENTH HOLE GENERAL)
PARTNERSHIP; VERONICA ALLARD dba)
22 OCEAN VIEW CARD ROOM; KATHERINE)
BOUSSON dba THE PALACE CARD CLUB;)
23 PHOENIX CASINO & LOUNGE, INC.;)
PLAYER'S POKER CLUB, INC.;)
24 ROGELIO'S, INC.; WALTER DREHER dba)
THE SILVER FOX, INC.; JOSE GABRIEL)
25 FERNANDEZ dba TURLOCK POKER ROOM;)
HARVEY SOUZA dba VILLAGE CLUB; and)
26 Defendant DOES 1 through 200, inclusive,)

27 Defendants.)
28

Case No. AG 07336796

**COMPLAINT FOR INJUNCTIVE
RELIEF AND CIVIL PENALTIES**

Health & Safety Code §25249.6 *et seq.*

(Other)

BY FAX

1 Plaintiff Center for Environmental Health, in the public interest, based on
2 information and belief and investigation of counsel, except for information based on personal
3 knowledge, hereby makes the following allegations:

4 **INTRODUCTION**

5 1. This complaint seeks to remedy defendants' continuing failure to warn
6 individuals in California that they are being exposed to lead and lead compounds (collectively,
7 "Lead"), chemicals known to the State of California to cause cancer and birth defects and other
8 reproductive harm. Such exposures have occurred, and continue to occur, through the
9 manufacture, distribution, sale and use of defendants' gaming chips (also known as casino chips
10 or poker chips) (the "Products"). The Products are sold to consumers in gaming establishments
11 and elsewhere and used by consumers and defendants' employees as special tokens representing
12 a fixed amount of money for wagers, tips, and other purposes. Consumers and workers in
13 California are exposed to Lead when they use, handle or otherwise touch the Products.

14 2. Under California's Proposition 65, Health and Safety Code §25249.5 *et*
15 *seq.*, it is unlawful for businesses to knowingly and intentionally expose individuals in California
16 to chemicals known to the State to cause cancer, birth defects or other reproductive harm without
17 providing clear and reasonable warnings to individuals prior to their exposure. Despite the fact
18 that defendants expose individuals in California to Lead through the manufacture, distribution,
19 sale, and use of the Products, defendants provide no warnings whatsoever about the carcinogenic
20 or reproductive hazards associated with Lead exposure. Defendants' conduct thus violates the
21 warning provision of Proposition 65. Health & Safety Code §25249.6.

22 **PARTIES**

23 3. Plaintiff Center For Environmental Health ("CEH") is a non-profit
24 corporation dedicated to protecting the public from environmental health hazards and toxic
25 exposures. CEH is based in Oakland, California and incorporated under the laws of the State of
26 California. CEH is a "person" within the meaning of Health & Safety Code §25249.11(a) and
27 brings this enforcement action in the public interest pursuant to Health & Safety Code
28 §25249.7(d). CEH is a nationally recognized non-profit environmental advocacy group that has

1 prosecuted a large number of Proposition 65 cases in the public interest. These cases have
2 resulted in significant public benefit, including reformulation of toxic products to make them
3 safer and the provision of clear and reasonable warnings on hundreds of products sold throughout
4 California.

5 4. Defendant Gaming Partners International USA (“GPI”) is a person in the
6 course of doing business within the meaning of Health & Safety Code §25249.11. GPI
7 manufactures, distributes and/or sells the Products for sale and use in card rooms and elsewhere
8 in California.

9 5. Defendant Blue Chip International, LLC (“Blue Chip”) is a person in the
10 course of doing business within the meaning of Health & Safety Code §25249.11. Blue Chip
11 manufactures, distributes and/or sells the Products for sale and use in card rooms and elsewhere
12 in California.

13 6. Defendant Clovis 500 Club General Partnership (“500 Club”) is a person
14 in the course of doing business within the meaning of Health & Safety Code §25249.11. 500
15 Club owns and operates one or more card rooms or casinos in California at which the Products
16 are sold to consumers and used by consumers and 500 Club employees as special tokens
17 representing a fixed amount of money for wagers, tips, and other purposes.

18 7. Defendant Lewis & Lewis doing business as Cameo Club (“Cameo Club”) is
19 a person in the course of doing business within the meaning of Health & Safety Code
20 §25249.11. Cameo Club owns and operates one or more card rooms or casinos in California at
21 which the Products are sold to consumers and used by consumers and Cameo Club employees as
22 special tokens representing a fixed amount of money for wagers, tips, and other purposes.

23 8. Defendant Capitol Casino is a person in the course of doing business
24 within the meaning of Health & Safety Code §25249.11. Capitol Casino owns and operates one
25 or more card rooms or casinos in California at which the Products are sold to consumers and
26 used by consumers and Capitol Casino employees as special tokens representing a fixed amount
27 of money for wagers, tips, and other purposes.

28 9. Defendant Casino Poker Club, Inc. (“Casino Club”) is a person in the

1 course of doing business within the meaning of Health & Safety Code §25249.11. Casino Club
2 owns and operates one or more card rooms or casinos in California at which the Products are
3 sold to consumers and used by consumers and Casino Club employees as special tokens
4 representing a fixed amount of money for wagers, tips, and other purposes.

5 10. Defendant Ernest Lee Schmidt doing business as Casino Real (“Casino
6 Real”) is a person in the course of doing business within the meaning of Health & Safety Code
7 §25249.11. Casino Real owns and operates one or more card rooms or casinos in California at
8 which the Products are sold to consumers and used by consumers and Casino Real employees as
9 special tokens representing a fixed amount of money for wagers, tips, and other purposes.

10 11. Defendant S&S Gaming, Inc. doing business as Club Caribe (“Club
11 Caribe”) is a person in the course of doing business within the meaning of Health & Safety Code
12 §25249.11. Club Caribe owns and operates one or more card rooms or casinos in California at
13 which the Products are sold to consumers and used by consumers and Club Caribe employees as
14 special tokens representing a fixed amount of money for wagers, tips, and other purposes.

15 12. Defendant Club One Casino, Inc. (“Club One”) is a person in the course of
16 doing business within the meaning of Health & Safety Code §25249.11. Club One owns and
17 operates one or more card rooms or casinos in California at which the Products are sold to
18 consumers and used by consumers and Club One employees as special tokens representing a
19 fixed amount of money for wagers, tips, and other purposes.

20 13. Defendant California Commerce Club, Inc. (“Commerce Club”) is a
21 person in the course of doing business within the meaning of Health & Safety Code §25249.11.
22 Commerce Club owns and operates one or more card rooms or casinos in California at which the
23 Products are sold to consumers and used by consumers and Commerce Club employees as
24 special tokens representing a fixed amount of money for wagers, tips, and other purposes.

25 14. Defendant Kern County Association, L.P. doing business as Golden West
26 Casino (“Golden West Casino”) is a person in the course of doing business within the meaning of
27 Health & Safety Code §25249.11. Golden West Casino owns and operates one or more card
28 rooms or casinos in California at which the Products are sold to consumers and used by

1 consumers and Golden West Casino employees as special tokens representing a fixed amount of
2 money for wagers, tips, and other purposes.

3 15. Defendant Hustler Casino is a person in the course of doing business
4 within the meaning of Health & Safety Code §25249.11. Hustler Casino owns and operates one
5 or more card rooms or casinos in California at which the Products are sold to consumers and
6 used by consumers and Hustler Casino employees as special tokens representing a fixed amount
7 of money for wagers, tips, and other purposes.

8 16. Defendant Albert Cianfichi doing business as Kelly's ("Kelly's") is a
9 person in the course of doing business within the meaning of Health & Safety Code §25249.11.
10 Kelly's owns and operates one or more card rooms or casinos in California at which the Products
11 are sold to consumers and used by consumers and Kelly's employees as special tokens
12 representing a fixed amount of money for wagers, tips, and other purposes.

13 17. Defendant Walter Dreher doing business as Lake Bowl Card Room ("Lake
14 Bowl Card Room") is a person in the course of doing business within the meaning of Health &
15 Safety Code §25249.11. Lake Bowl Card Room owns and operates one or more card rooms or
16 casinos in California at which the Products are sold to consumers and used by consumers and
17 Lake Bowl Card Room employees as special tokens representing a fixed amount of money for
18 wagers, tips, and other purposes.

19 18. Defendant Peter Matt Mikacich doing business as Limelight Card Room
20 ("Limelight Card Room") is a person in the course of doing business within the meaning of
21 Health & Safety Code §25249.11. Limelight Card Room owns and operates one or more card
22 rooms or casinos in California at which the Products are sold to consumers and used by
23 consumers and Limelight Card Room employees as special tokens representing a fixed amount of
24 money for wagers, tips, and other purposes.

25 19. Defendant Point-Walker, Inc. doing business as Lucky Derby Casino
26 ("Lucky Derby Casino") is a person in the course of doing business within the meaning of Health
27 & Safety Code §25249.11. Lucky Derby Casino owns and operates one or more card rooms or
28 casinos in California at which the Products are sold to consumers and used by consumers and

1 Lucky Derby Casino employees as special tokens representing a fixed amount of money for
2 wagers, tips, and other purposes.

3 20. Defendant Mortimer's, Inc. ("Mortimer's") is a person in the course of
4 doing business within the meaning of Health & Safety Code §25249.11. Mortimer's owns and
5 operates one or more card rooms or casinos in California at which the Products are sold to
6 consumers and used by consumers and Mortimer's employees as special tokens representing a
7 fixed amount of money for wagers, tips, and other purposes.

8 21. Defendant The Nineteenth Hole General Partnership ("Nineteenth Hole")
9 is a person in the course of doing business within the meaning of Health & Safety Code
10 §25249.11. Nineteenth Hole owns and operates one or more card rooms or casinos in California
11 at which the Products are sold to consumers and used by consumers and Nineteenth Hole
12 employees as special tokens representing a fixed amount of money for wagers, tips, and other
13 purposes.

14 22. Defendant Veronica Allard doing business as Ocean View Card Room
15 ("Ocean View Card Room") is a person in the course of doing business within the meaning of
16 Health & Safety Code §25249.11. Ocean View Card Room owns and operates one or more card
17 rooms or casinos in California at which the Products are sold to consumers and used by
18 consumers and Ocean View Card Room employees as special tokens representing a fixed amount
19 of money for wagers, tips, and other purposes.

20 23. Defendant Katherine Bousson doing business as The Palace Card Club
21 ("Palace Card Club") is a person in the course of doing business within the meaning of Health &
22 Safety Code §25249.11. Palace Card Club owns and operates one or more card rooms or casinos
23 in California at which the Products are sold to consumers and used by consumers and Palace
24 Card Club employees as special tokens representing a fixed amount of money for wagers, tips,
25 and other purposes.

26 24. Defendant Phoenix Casino & Lounge, Inc. ("Phoenix Casino") is a person
27 in the course of doing business within the meaning of Health & Safety Code §25249.11. Phoenix
28 Casino owns and operates one or more card rooms or casinos in California at which the Products

1 are sold to consumers and used by consumers and Phoenix Casino employees as special tokens
2 representing a fixed amount of money for wagers, tips, and other purposes.

3 25. Defendant Player's Poker Club, Inc. ("Player's Club") is a person in the
4 course of doing business within the meaning of Health & Safety Code §25249.11. Player's Club
5 owns and operates one or more card rooms or casinos in California at which the Products are
6 sold to consumers and used by consumers and Player's Club employees as special tokens
7 representing a fixed amount of money for wagers, tips, and other purposes.

8 26. Defendant Rogelio's, Inc. ("Rogelio's") is a person in the course of doing
9 business within the meaning of Health & Safety Code §25249.11. Rogelio's owns and operates
10 one or more card rooms or casinos in California at which the Products are sold to consumers and
11 used by consumers and Rogelio's employees as special tokens representing a fixed amount of
12 money for wagers, tips, and other purposes.

13 27. Defendant The Silver Fox, Inc. ("Silver Fox") is a person in the course of
14 doing business within the meaning of Health & Safety Code §25249.11. Silver Fox owns and
15 operates one or more card rooms or casinos in California at which the Products are sold to
16 consumers and used by consumers and Silver Fox employees as special tokens representing a
17 fixed amount of money for wagers, tips, and other purposes.

18 28. Defendant Jose Gabriel Fernandez doing business as Turlock Poker Room
19 ("Turlock Poker Room") is a person in the course of doing business within the meaning of
20 Health & Safety Code §25249.11. Turlock Poker Room owns and operates one or more card
21 rooms or casinos in California at which the Products are sold to consumers and used by
22 consumers and Turlock Poker Room employees as special tokens representing a fixed amount of
23 money for wagers, tips, and other purposes.

24 29. Defendant Harry Souza doing business as Village Club ("Village Club") is
25 a person in the course of doing business within the meaning of Health & Safety Code §25249.11.
26 Village Club owns and operates one or more card rooms or casinos in California at which the
27 Products are sold to consumers and used by consumers and Village Club employees as special
28 tokens representing a fixed amount of money for wagers, tips, and other purposes.

1 more of the violations arise in the County of Alameda.

2 **BACKGROUND FACTS**

3 37. The People of the State of California have declared by initiative under
4 Proposition 65 their right “[t]o be informed about exposures to chemicals that cause cancer, birth
5 defects, or other reproductive harm.” Proposition 65, §1(b).

6 38. To effectuate this goal, Proposition 65 requires that individuals be
7 provided with a “clear and reasonable warning” before being exposed to chemicals listed by the
8 State of California as known to cause cancer and birth defects or other reproductive harm unless
9 the business responsible for the exposure can prove that it fits within a statutory exemption.

10 Health & Safety Code §25249.6 states, in pertinent part:

11 No person in the course of doing business shall knowingly and
12 intentionally expose any individual to a chemical known to the
13 state to cause cancer or reproductive toxicity without first giving
14 clear and reasonable warning to such individual. . .

15 39. On February 27, 1987, the State of California officially listed lead as a
16 chemical known to cause reproductive toxicity. Lead is specifically identified as a reproductive
17 toxicant under three subcategories: “developmental reproductive toxicity,” which means harm to
18 the developing fetus, “female reproductive toxicity,” which means harm to the female
19 reproductive system, and “male reproductive toxicity,” which means harm to the male
20 reproductive system. 22 California Code of Regulations (“CCR”) §12000(c). On February 27,
21 1988, one year after it was listed as a chemical known to cause reproductive toxicity, lead
22 became subject to the clear and reasonable warning requirement regarding reproductive toxicants
23 under Proposition 65. 22 CCR §12000(c); Health & Safety Code §25249.10(b).

24 40. On October 1, 1992, the State of California officially listed lead and lead
25 compounds as chemicals known to cause cancer. On October 1, 1993, one year after they were
26 listed as chemicals known to cause cancer, lead and lead compounds became subject to the clear
27 and reasonable warning requirement regarding carcinogens under Proposition 65. 22 CCR
28 §12000(c); Health & Safety Code §25249.10(b).

41. There is no safe level of exposure to Lead and even minute amounts of

1 Lead exposure have been proven harmful in children and adults. Recent studies have repeatedly
2 concluded that concentrations of lead previously deemed acceptable can have adverse health
3 effects. *See, e.g.,* Schober, Susan E., Mirel, Lisa B., Braubard, Barry I., Brody, Debra J., and
4 Flegal, Katherine M., "Blood Lead Levels and Death from All Causes, Cardiovascular Disease,
5 and Cancer: Results from the NHANES III Mortality Study, *Environmental Health Perspectives*,
6 114:10, p. 1538 (October 2006).

7 42. Defendants' Products contain sufficient quantities of Lead such that
8 individuals who handle the Products are exposed to Lead through the average use of the Product.
9 Consumer exposures take place when consumers use, handle, or otherwise touch the Products.
10 Occupational exposures occur when workers use, handle, or otherwise touch the Products. Such
11 exposures to Lead occur via direct ingestion when consumers or workers place the Products or
12 items that have touched the Products in their mouths; via hand to mouth contact when consumers
13 or workers touch their mouths after handling or coming into contact with the Products; and/or via
14 dermal absorption directly through the skin when consumers or workers touch or handle the
15 Products or items that have touched the Products. For example, a typical game of poker at one of
16 Defendants' card rooms require consumers and workers to touch the Products multiple times in
17 order to place and collect wagers.

18 43. Any person acting in the public interest has standing to enforce violations
19 of Proposition 65 provided that such person has supplied the requisite public enforcers with a
20 valid 60-Day Notice of Violation and such public enforcers are not diligently prosecuting the
21 action within such time. Health & Safety Code §25249.7(d).

22 44. On or after June 23, 2006, CEH provided a 60-Day "Notice of Violation of
23 Proposition 65" (the "Notice") to the California Attorney General, the District Attorneys of every
24 county in California, the City Attorneys of every California city with a population greater than
25 750,000 and to each of the named Defendants. Each of the Notices contained the information
26 required by Health & Safety Code §25249.7(d) and 22 Cal. Code Regs. §12903(b).

27 45. CEH also sent a Certificate of Merit for each of the Notices to the
28 California Attorney General, the District Attorneys of every county in California, the City

1 Attorneys of every California city with a population greater than 750,000 and to the named
2 Defendants. In compliance with Health & Safety Code §25249.7(d) and 11 CCR §3101, the
3 Certificate certified that CEH's counsel: (1) has consulted with one or more persons with
4 relevant and appropriate experience or expertise who reviewed facts, studies or other data
5 regarding the exposures to Lead alleged in the Notice; and (2) based on the information obtained
6 through such consultations, believes that there is a reasonable and meritorious case for a citizen
7 enforcement action based on the facts alleged in the attached Notice. In compliance with Health
8 & Safety Code §25249.7(d) and 11 CCR §3102, the Certificate served on the Attorney General
9 included factual information – provided on a confidential basis – sufficient to establish the basis
10 for the Certificate, including the identity of the person(s) consulted by CEH's counsel and the
11 facts, studies or other data reviewed by such persons.

12 46. None of the public prosecutors with the authority to prosecute violations
13 of Proposition 65 has commenced and/or is diligently prosecuting a cause of action against the
14 Proposition 65 Defendants under Health & Safety Code §25249.5 *et seq.* based on the claims
15 asserted in the Notice.

16 47. Defendants both know and intend that individuals will handle the
17 Products, thus exposing them to Lead. Defendants GPI and Blue Chip both offer Products that
18 do not contain Lead.

19 48. Defendants have been informed of the Lead in their Products by the 60-
20 day notice of violation served on them by CEH.

21 49. Nevertheless, Defendants continue to expose consumers, including
22 children, to Lead without prior clear and reasonable warnings regarding the carcinogenic or
23 reproductive hazards of Lead.

24 50. CEH has engaged in good-faith efforts to resolve the claims alleged herein
25 prior to filing this complaint.

26 51. Any person “violating or threatening to violate” Proposition 65 may be
27 enjoined in any court of competent jurisdiction. Health & Safety Code §25249.7. “Threaten to
28 violate” is defined to mean “to create a condition in which there is a substantial probability that a

1 violation will occur.” Health & Safety Code §25249.11(e). Proposition 65 provides for civil
2 penalties not to exceed \$2,500 per day for each violation of Proposition 65.

3 **FIRST CAUSE OF ACTION**
4 **(Violations of the Health & Safety Code §25249.6 - Consumer Exposures)**
5 **(Against All Defendants)**

6 52. CEH realleges and incorporates by reference as if specifically set forth
7 herein Paragraphs 1 through 51 inclusive.

8 53. By placing the Products into the stream of commerce, Defendants are
9 persons in the course of doing business within the meaning of Health & Safety Code §25249.11.

10 54. Defendants know that the Products will expose consumers to Lead.
11 Defendants intend that the Products be handled and used in a manner that results in consumers
12 being exposed to Lead contained in the Products.

13 55. The Defendants have failed, and continue to fail, to provide clear and
14 reasonable warnings regarding the carcinogenicity and reproductive toxicity of the Lead
15 contained in the Products.

16 56. Lead is a chemical listed by the State of California as known to cause
17 cancer and birth defects and other reproductive harm.

18 57. By committing the acts alleged above, the Defendants have at all times
19 relevant to this complaint violated Proposition 65 by knowingly and intentionally exposing
20 individuals to Lead without first giving clear and reasonable warnings to such individuals
21 regarding the carcinogenicity and reproductive toxicity of Lead.

22 Wherefore, CEH prays judgment against the Defendants, as set forth hereafter.

23 **SECOND CAUSE OF ACTION**
24 **(Violations of the Health & Safety Code §25249.6 - Occupational Exposures)**
25 **(Against Cardroom Defendants)**

26 58. CEH realleges and incorporates by reference as if specifically set forth
27 herein Paragraphs 1 through 57 inclusive.

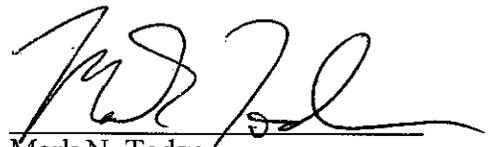
28 59. By placing the Products into the stream of commerce, the Cardroom
Defendants are persons in the course of doing business within the meaning of Health & Safety
Code §25249.11.

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5. That the Court utilize its inherent equitable power to grant such other and further relief as may be just and proper.

Dated: July 20, 2007

Respectfully submitted,
LEXINGTON LAW GROUP, LLP



Mark N. Todzo
Attorneys for Plaintiff
CENTER FOR ENVIRONMENTAL
HEALTH