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**SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, MERCER COUNTY
DOCKET NO.:**

STATE OF NEW JERSEY,

Plaintiff,

Civil Action

COMPLAINT

1

**7SULTANS.COM, BOB FONTAIN
and JOHN AND JANE DOES,**

Defendants.

Plaintiff, State of New Jersey, acting by and through its Department of Law & Public Safety, having its offices at the Richard J. Hughes Justice Complex, 25 Market Street, Trenton, New Jersey, by way of Complaint against defendants states:

JURISDICTION AND PARTIES

1. The State of New Jersey, by and through its Department of Law & Public Safety, is now and at all times referenced herein has been charged with the responsibility of enforcing the Constitution, Art. IV, § 7, ¶ 2, and the laws of New Jersey, including the Code of Criminal Justice, *N.J.S.A. 2C: 1-1 et seq.* (hereinafter referred to as the "Criminal Code"), Gaming and Lotteries, *N.J.S.A. 2A: 40-1 et seq.* (hereinafter referred to as the "Antigaming Act"), the Casino Control Act (hereinafter referred to as the "CCA"), *N.J.S.A. 5:12-1 et seq., N.J.S.A.*, and the Consumer Fraud Act (hereinafter referred to as the "CFA"), *N.J.S.A. 56:8-1 et seq.*, and the regulations promulgated there under, *N.J.A.C. 13:45A-1.1 et seq.* This action seeking injunctive and other relief is brought pursuant to the Attorney General's authority to prevent unauthorized gambling activity, as recognized in *State v. Fiola*, 242 N.J. Super. 240, 243 (App. Div. 1990), and the provisions of *N.J.S.A. 55: 8-8, 56:8-11 and 56:8-13.*

2. Defendant 7sultans.com (hereinafter referred to as "Sultans") is an entity that operates a website from which any individual with a computer and Internet access can participate in a variety of online gambling. This gambling includes traditional casino games such as blackjack and keno, which have instant payoffs.

3. In order to place wagers with Sultans, a user must register. The first web page for registration asks for personal information, such as name, address, country, telephone number and birth date. On June 28, 2000, and May 3, 2000, Sultans accepted applications and wagers when the United States was the user's country and New Jersey the user's state of residence. Sultans, therefore, actively solicited bettors throughout the United States, including New Jersey.

4. The situs of gambling activity in an online casino is where the bettor is located when he or she logs into the Internet casino, enters the wagers and retakes gambling-related decisions.

5. Defendant Bob Fontain, IBC SA, Postnet Suite 181 Private Bag X5, Norwood, Johannesburg, Gauteng 2117, South Africa, is registered with Network Solutions, a company responsible for registering Internet domain names and maintaining information, as the Internet registrant for Sultans. Fontain, bobf@boodstiek.com, telephone number 27117860001 and fax number 27117861126, is registered as Sultans' administrative, technical and billing contact.

6. Defendants John and Jane Does are the owners and operators of Sultans who are unknown to Plaintiff at this time.

BUSINESS PRACTICES

7. A joint investigation by the New Jersey Division of Consumer Affairs (hereinafter referred to as "Consumer Affairs") and the New Jersey Division of Gaming Enforcement (hereinafter referred to as "Gaming Enforcement"), both of which are divisions within the Department of Law & Public Safety, has revealed that defendants' website not only violates the New Jersey Constitution and New Jersey civil and criminal laws but also allows and encourages its New Jersey users, including those under the age of 21 (hereinafter referred to as "Underage Gamblers"), to participate in unlawful gambling activities.

8. From approximately April 1 until at least October 12, 2000, and again on or about May 3, 2001, Sultans has operated a website accessible to New Jersey users that allowed and continues to allow illegal casino-type gambling. Defendants' website was and is available at the Internet site "www.7sultans.coan" to all persons in New Jersey who have access to a computer and the Internet. Anyone who accesses defendants' website was and is able to participate in a variety of online casino games. All such betting is illegal in the State of New Jersey.

9. Beginning on or about April 1, until at least June 22, 2000, a billboard on Schiff's Central Pier, 1400-1 4 Boardwalk, across from St. James Place, Atlantic City, New Jersey, advertised Sultans' illegal activity. Anyone walking east on the Boardwalk could easily view this billboard. Its background was solid red. The right quarter contained an outline of a minaret with the phrase "7 Sultans

Casino" printed vertically on top of it. In large print across the top half of the remaining three quarters of the billboard was the phrase "\$50 FREE!" and in letters approximately one-third that size and immediately beneath "\$50 FREE!" was the phrase "%www.7sultans.com." Below that phrase and in letters slightly smaller was the phrase "Online Casino."

10. On June 16, 2000, a Gaming Enforcement investigator posing as an online consumer accessed defendants' website from computers located at Gaming Enforcement's offices, 140 East Front Street, Trenton, New Jersey, and established an account. The Gaming Enforcement investigator then logged off.

11. On June 19, 2000, a Gaming Enforcement investigator accessed defendants' website from computers located at Gaming Enforcement's offices and deposited funds into the account by using a credit card. After the funds were credited to the account, the Gaming Enforcement investigator placed ten wagers, one on the traditional game of blackjack, four on slots, four on roulette and one on video poker. The Gaming Enforcement investigator received a payoff on one wager and incurred losses on the other nine. The Gaming Enforcement investigator then logged off.

12. On May 3, 2001, two 16-year-olds (hereinafter referred to as "Sultan Underage Gamblers"), working with Gaming Enforcement and Consumer Affairs investigators and posing as online consumers, were able to set up gambling accounts on Sultans' website from a computer located in Consumer Affairs' offices, 124 Halsey Street, Newark, New Jersey, using an undercover credit card and a false birth date. The Sultan Underage Gamblers both responded affirmatively to the question asking if they were of legal age to gamble. The Sultan Underage Gamblers bet and played blackjack and keno. One of the Sultan Underage Gamblers received payoffs in three games and the other incurred losses on three. The Sultan Underage Gamblers then logged off.

COUNT 1

13. Plaintiff repeats and realleges all of the paragraphs enumerated above as if fully set forth at length herein.

14. Gambling is a highly regulated activity within the United States and is only permitted within a given state upon explicit constitutional and statutory authorization.

15. New Jersey's Constitution provides in part that:

No gambling of any kind shall be authorized by the Legislature unless the specific kind, restrictions and control thereof have been heretofore submitted to, and authorized by a majority of the votes cast by, the people at a special election or shall hereafter be submitted to, and authorized by a majority of the votes cast thereon by, the legally qualified voters of the State voting at a general election

[NJ Const., art. IV, § 7, ¶ 2.]

16. The New Jersey Constitution also provides limited exceptions to this prohibition: horse racing, charitable bingo, raffles and games of chance, the New Jersey State Lottery and Atlantic City gambling houses or casinos. *Ibid.* Internet gambling is not one of the specified exceptions, and to date, there has been no public referendum concerning Internet gambling, and, therefore, no voter approval of such.

17. By repeatedly and persistently operating, managing and running an Internet gambling casino, defendants have acted and continue to act in violation of Article 4, § 7, ¶ 2 of New Jersey's Constitution.

COUNT II

18. Plaintiff repeats and realleges all of the paragraphs enumerated above as if fully set forth at length herein.

19. The Antigaming Act prohibits gambling by stating that:

All wagers, bets or stakes made to depend upon any race or game, or upon any gaming by lot or chance, or upon any lot, chance, casualty or contingent event, shall be unlawful.

[*N.J.S.A.* 2A:40-1.]

20. The Criminal Code prohibits gambling by providing in part that:

A person is guilty of promoting gambling when he knowingly:

(1) accepts or receives money or other property, pursuant to an agreement or understanding with any person whereby he participates or will participate in the proceeds of gambling activity; or

(2) Engages in conduct, which materially aids any form of gambling activity. Such conduct includes but is not limited to conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases, or toward any other phase of its operation.

[*N.J.S.A.* 2C:37-2a].

21. The Criminal Code's prohibition against gambling does not, however, apply to "any activity authorized by the" CCA. *N.J.S.A.* 2C:37-9.

22. The CCA mandates licensure by the Casino Control Commission before any casino gambling games may be offered to the general public. *N.J.S.A.* 5:12-112.

23. Sultans has never sought or obtained casino licensure from the Casino Control

Commission.

24. New Jersey law prohibits persons under the age at which a person is authorized to purchase and consume alcoholic beverages, which is 21, to “enter, or wager in, a licensed casino or simulcasting facility ...” *N.J.S.A. 5:12-11.9*; *N.J.S.A. 9:1.7B-1b*. See also *N.J.S.A. 9:1 7B-1c*. Casino gambling by Underage Gamblers is, therefore, prohibited under all circumstances.

25. Defendants allow New Jersey consumers, including Underage Gamblers, to place wagers in their Internet casinos in violation of *N.J.S.A. 2A:40-1*, *N.J.S.A. 2C:37-2*, *N.J.S.A. 5:12-1.12* and *N.J.S.A. 5:12-119*.

26. By repeatedly and persistently operating, managing and running an Internet gambling casino, defendants have acted and continue to act in violation of *N.J.S.A. 2A:40-1*, *N.J.S.A. 2C:37-2*, *N.J.S.A. 5:12-112*, and *N.J.S.A. 5:12-119*.

COUNT III

27. Plaintiff repeats and realleges all of the paragraphs enumerated above as if fully set forth at length herein.

28. Gaming Enforcement investigators and the Underage Gamblers, located in New Jersey, bet at Sultans' website and incurred losses on some wagers. It is believed that consumers throughout New Jersey who have illegally bet as games conducted by Sultans have also lost money, although Plaintiff is not aware of the amount lost.

29. A bettor who loses money in an unlawful gambling transaction is permitted to recover any money lost within six calendar months after payment or delivery to the winner. *N.J.S.A. 2A:40-5*.

30. Under *N.J.S.A. 2A:40-6*, if a loser does not seek recovery within such period, any other person may sue for and recover the same, with costs of suit, from such winner, depository or stakeholder as aforesaid; the one moiety thereof to the use of the person suing for the same, and the other moiety to the use of the state; provided the action is instituted within 6 calendar months from and after the expiration of the [six-month] time limit[] ... for the loser to sue for the same.

[*N.J.S.A. 2A:40-6*.]

31. Every person who may be liable for the return of such winnings "shall make discovery pursuant to an order of a court of competent jurisdiction either before or after action is commenced concerning the money or other things so won, paid or deposited." *N.J.S.A. 2A:40-7*.

32. Pursuant to *N.J.S.A. 2A:40-7*, Plaintiff seeks an accounting of all monies won by defendants from New Jersey users for the past twelve months and pursuant to *N.J.S.A. 2A:40-6*, recover of all monies won by defendants from New Jersey users during the period prior to the past six months.

COUNT IV

33. Plaintiff repeats and realleges all of the paragraphs enumerated above as if fully set forth at length herein.

34. Section 2 of the CFA, N.J.S.A. 56:8-2, prohibits the use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing concealment or suppression or omission of any material fact with intent that others rely upon such concealment, suppression, or omission, in connection with the sale or advertisement of any merchandise.

35. Defendants' operation and advertising of an online casino at the web address "www.7sultans.com" allow and encourage New Jersey consumers to participate in a variety of illegal gambling, including casino games such as blackjack, slots and roulette.

36. Defendants' owning, operating and advertising of an illegal online casing accessible in the State of New Jersey constitutes an unconscionable commercial practice.

37. Defendants have repeatedly violated and continue 'to violate the New Jersey Consumer Fraud Act, *N.J.S.A.* 56:8-2, by engaging in unconscionable commercial practices.

COUNT V

38. Plaintiff repeats and realleges all of the paragraphs enumerated above as if fully set forth at length herein.

39. Defendants' online casino is accessible to Underage Gamblers because it contains improper or unreliable age verification and/or no method to prevent underage gambling.

40. Defendants' operation and advertising of an online casino accessible to Underage Gamblers within the State of New Jersey is an unconscionable commercial practice.

41. Defendants have repeatedly violated and continue to violate the New Jersey Consumer Fraud Act, *N.J.S.A.* 56:8-2, by engaging in unconscionable commercial practices.

COUNT VI

42. Plaintiff repeats and realleges all of the paragraphs enumerated above as if fully set forth at length herein.

43. Defendant contain is the administrative, technical and billing contact for Sultans.

44. As the administrative, technical and billing contract for Sultans, Fontain controls, operates and/or participates in Sultans' unconscionable commercial practice of operating an illegal online gambling site accessible to New Jersey consumers, including Underage Gamblers.

45. Fontain has repeatedly violated and continues to violate the New Jersey Consumer Fraud Act, *N.J.S.A.* 56:8-2, by engaging in unconscionable commercial practices and deceptive commercial conduct.

COUNT VII

46. Plaintiff repeats and reallages all of the paragraphs enumerated above as i f fully set forth at length herein.

47. Defendants Jane and. John Does are the as yet unidentified owners and operators of Sultans.

48. As owners and operators, Jane and John Does control, operate and/or participate in Sultans' unconscionable commercial practice of operating an illegal online gambling site accessible to New Jersey consumers, including Underage Gamblers.

49. Jane and John Does have repeatedly violated and continue to violate the New Jersey Consumer Fraud Act, *N.J.S.J. Sb:B-2*, by engaging in unconscionable commercial practices and deceptive commercial conduct.

PRAYER FOR RELIEF

WHEREFORE, based upon the foregoing allegations, Plaintiff respectfully requests that the Court enter judgment:

- a. Finding that the acts and/or omissions of defendants constitute multiple instances of unlawful conduct in violation of the New Jersey Constitution, Art. 1V, § 7, 12.
- b. Finding that the acts and/or omissions of defendants constitute multiple instances of unlawful conduct in violation of New Jersey law, *NJ:S.A. 2A:40-1*, *N.J.S.A. 2C:37-2a*, *N.J.S.A. 5:12-112* and *N.J.S.A. 5:12-119*.
- c. Finding that the acts and/or omissions of defendants constitute multiple instances of unlawful practices to violation of *N.J.S.A. 56:8-1 et seq.*
- d. Permanently enjoining defendants or anyone acting in active concert or participation with them ox acting on their behalf from engaging in, continuing to engage in, or doing any acts or practices in violation of the New Jersey Constitution, the Antigaming Act, the Criminal Code, the CCA and/or the CFA and the regulations promulgated thereunder, including, but not limited to, the acts and practices alleged in this Complaint;
- e. Permanently enjoining defendants or anyone acting in active concert or participation with them or acting on their behalf from engaging in or continuing to engage in any advertisements for online gambling within the state of New Jersey, including, but not limited to, billboard advertisements of an online gambling website.

- f. Permanently enjoining defendants or anyone acting in active concert or participation with them or acting on their behalf from accepting wagers or allowing any other gambling activity from individuals or entities located in the state of New Jersey.
- g. Directing the defendants to give Plaintiff an accounting of all money won from New Jersey users for the past 12 months and recovery of all monies won by defendants from New Jersey users during the users during the period prior to the past six months;
- h. Directing defendants at their own expense to restore to any affected person, whether specially named in this Complaint or not, any money or property acquired by means of any practice alleged herein to be unlawful under *N.J.S.A. 56:8-8*
- i. Assessing the maxim statutory civil penalty against defendants in the amount of \$7,500 for each an every violation of CFA in accordance with *N.J.S.A. 56:8-13*;
- j. Directing the assessment of costs and fees, including attorney fees, against defendants for the sure of the State of New Jersey as authorized by *N.J.S.A. 56:8-11* and *N.J.S.A 56:8-19*; and
- k. Granting such other relief as the interests o f justice may require.

JOHN J. FARMER, JR.
ATTORNEY GENERAL Or NEW JERSEY
Attorney for Plaintiff

John Peter Suarez
Assistant Attorney General
And Director, Division of Gaming Enforcement

Dated: June 18, 2001

RULE 4:5-1 CERTIFICATION

I certify that the matter in controversy in this action is not the subject of any other civil action pending in any other court of this State or of a pending arbitration proceeding, nor is any other civil action or arbitration proceeding contemplated. I certify that there is no other party who should be joined in this action

DESIGNATION OF TRIAL COUNSEL

John Peter Suarez, Assistant Attorney General and Director, Division of Gaming Enforcement, is hereby designated as trial counsel for this matter.

**JOHN J. FARMER, JR.
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff**

**John Peter Suarez
Assistant Attorney General
And Director, Division of Gaming Enforcement**

Dated: June 18, 2001