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ATTORNEY GENERAL OF NEW JERSEY**

Attorney for Plaintiff  
State of New Jersey  
Richard J. Hughes Justice Complex  
25 Market Street  
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By: **John Peter Suarez, Assistant Attorney General  
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**SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION, MERCER COUNTY  
DOCKET NO.:**

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**STATE OF NEW JERSEY,**

**Plaintiff,**  
v.

**Civil Action  
COMPLAINT**

**ALOHACASINO.COM,  
GODFREY VOLK, ANTONIO CHENG  
and JOHN AND JANE DOES,**

**Defendants.**

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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.*, and the Consumer Fraud Act (hereinafter referred to as the "CFA"), *N.J.S.A. 56:8-1 et seq.*, and the regulations promulgated thereunder, *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.* 56:8-8, 56:8-11 and 56:8-13.

2. Upon information and belief, defendant Alohascasino.com (hereinafter referred to as "Aloha") is a Costa Rican entity that operates a website from which any individual with a computer and Internet access can participate in a variety of online gambling activities for money. This gambling includes traditional casino games such as blackjack and craps, which have instant wins or losses, wagering on horse races and sports betting.

3. In order to place wagers with Aloha, the user must initially register. The first web page for registration asks for personal information, such as name, address and telephone number. The web page also requests the country of the user, but this box automatically displays the United States as the user's country, so that a user from the United States need make no changes, whereas a user from any country other than the United States must change this entry and insert his or her country. On February 29, March 6, 7, 8, 9, 13, 15,16, 17 and 21 and mid April 10, 2000, and April 24 and 26, 2001, Aloha accepted applications and wagers when the United States was the user's country and New Jersey the user's state of residence. Aloha, therefore, has 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 makes gambling-related decisions.

5. Defendant Godfrey Volk (hereinafter referred to as "Volk") is registered with Network Solutions, a company responsible for registering Internet domain names and maintaining information, as the Internet administrative contact for Aloha at "registration@ticonet.co.cr." His contact address is Perplexa, Apartado 5173-1000, San Jose, Costa Rica, telephone number 506-283-3335.

6. Defendant Antonio Cheng (hereinafter referred to as "Cheng") is registered as the Internet technical and billing contact for Aloha at "antonio@mail.perplexa.com." His contact address is Apartado 5173-1000, San Jose, Costa Rica, telephone number 506-280-0932.

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

#### **BUSINESS PRACTICES**

8. 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.

9. Since at least February 2000, Aloha has operated a website accessible by New Jersey users that allows illegal casino-type gambling and sports betting. Defendants' website is available at the Internet site "www.alohacasino.com" to all persons in New Jersey who have access to a computer and the

Internet. Anyone who accesses the Aloha website is able to participate in a variety of online casino games, wagering on horse races and sports betting on a variety of collegiate and professional sports, including those taking place in New Jersey or involving New Jersey-based teams. For instance, any person in New Jersey who accesses the Aloha website is able to place wagers on the outcome of games played by collegiate sports teams from Rutgers and Seton Hall Universities, both of which are located in New Jersey, as well as professional games played by the New Jersey Nets and the New Jersey Devils. All such betting is illegal in the State of New Jersey.

10. Beginning on or about December 1, 1999, and through June 1, 2000, a billboard on the eastbound side of the Atlantic City Expressway approximately 300 yards east of the Pleasantville Toll Plaza at mile post 4.2 in Atlantic City, New Jersey (hereinafter referred to as "Aloha Atlantic City Billboard"), which could be viewed by anyone traveling west on the Atlantic City Expressway, advertised Aloha's illegal business activities. In large letters across the face of the Aloha Atlantic City Billboard was the phrase "Alollacasino.com" and in letters approximately one half that size and directly beneath "Alohacasino.com" were the words "Online Casino & Sportsbook." The background was a green gaming table with a picture of a roulette wheel in the upper right-hand corner, dice in the lower right-hand corner and a woman dressed in traditional Hawaiian hula garb standing next to a large yellow flower on the left-hand side.

11. From at least April 6 until April 21, 2000, a billboard located on the southbound side of Routes 1 & 9 in Newark, New Jersey, near Ferry Street, which could be viewed by drivers heading north on Routes 1 & 9, displayed an identical advertisement for Aloha's illegal gambling business activities to persons in New Jersey.

12. On February 29, March 7, 8, 9, 13,14,15, 16,17, 20, 21 and 23, 2000, and April 26 and 27, 2001, Gaming Enforcement investigators posing as online consumers conducted a series of online gambling transactions from computers located in Gaming Enforcement's offices, 140 East Front Street, Trenton, New Jersey. These transactions included establishing a gambling account at defendants' website by using a credit card, sending a money order and authorizing an electronic transfer from a New Jersey banking account. Each of these methods was successful in opening and depositing funds in an account from which Gaming Enforcement investigators could gamble. The gambling included bets on traditional casino games such as roulette, blackjack and slots and on horse races throughout the United States. Gaming Enforcement investigators also placed wagers and received payoffs or incurred losses on college basketball events involving Rutgers and Seton Hall Universities, both of which are located in New Jersey.

13. On April 10, 2000, a 15-year-old and a 17-year-old (hereinafter referred to as "Aloha Underage Gamblers"), working with Gaming Enforcement and Consumer Affairs investigators and posing as online consumers, were able to place numerous wagers on defendants' website from computers located in Consumer Affairs' offices, 124 Halsey Street, Newark, New Jersey. These wagers included bets on professional basketball games and the traditional casino game of roulette. The Aloha Underage Gamblers were able to set up gambling accounts using undercover credit cards. At no point during the registration

process were the Aloha Underage Gamblers asked their age nor were any methods in place to verify that they were of legal age to gamble.

14. On April 24, 2001, a Gaming Enforcement investigator posing as an online consumer accessed defendants' website from a computer located in Gaming Enforcement's offices. The first page to appear was a registration page and required name, address, phone number, fax number and e-mail address. The Gaming Enforcement investigator completed the form using a New Jersey address and submitted it. After receiving notification that an account had been established, the Gaming Enforcement investigator deposited funds into the account using a personal credit card. After receiving confirmation that the deposit had been made, the investigator made two wagers each on blackjack and video poker and received payoffs on two and incurred losses on the other two. The account screen, which the Gaming Enforcement investigator next viewed, properly reflected the gambling activity. The investigator then logged off.

15. On, April 26, 2001, the Gaming Enforcement investigator accessed defendants' website, entered the sportsbook and placed wagers on two professional sports games, one between the New Jersey Devils and the Toronto Maple Leafs and one between the New York Knicks and the Toronto Raptors. The account screen, which the Gaming Enforcement investigator next viewed, properly reflected the gambling activity. The Gaming Enforcement investigator then logged off.

16. On April 27, 2001, the Gaming Enforcement investigator accessed defendants' website, entered the sportsbook and learned that both sportsbook wagers were lost. The account screen, which the investigator next viewed, properly reflected, the gambling activity. The Gaming Enforcement investigator then logged off.

### **COUNT 1**

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

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

19. 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 ....  
[*N.J. Const.*, art. IV, § 7, ¶2.]

20. 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.

21. 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

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

23. 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.*]

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

A person is guilty of promoting gambling whom 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 away 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.*]

25. 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.*

26. 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.*

27. Aloha has never sought or obtained casino licensure from 3 the Casino Control Commission.

28. 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.5:12-119; N.J.S.A.9:17B-1b.* See also *N.J.SA.9:17B-1c.* Casino gambling by Underage Gamblers is, therefore, prohibited under all circumstances.

29. 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:37-2a*, *N.J.S.A. 5:12-112* and *N.J.S.A. 5:12-119*.

30. 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. 5:12-1 I2*, and *N.J.S.A. 5:12-119*.

### COUNT III

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

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

33. A bettor who laws 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*.

34. 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, depositary 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 cue for the same. [*N.J.S.A. 2A:40-6*.]

35. 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*.

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

### COUNT IV

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

38. 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.

39. Defendants' operation and advertising of an online casino at the web address "vwww.alohacasioo.com," allow and encourage New Jersey consumers to participate in a variety of illegal gambling, including casino games such as blackjack, slots and roulette. New Jersey consumers who access the Aloha website are also able to participate in sports betting, including the ability to wager on the outcome of games played by professional New Jersey teams such as the New Jersey Devils as well as New Jersey collegiate teams such as those from Rutgers and Seton Hall Universities.

40. Defendants' owning, operating and advertising of an illegal online casino accessible in the State of New Jersey constitutes 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 V**

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

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

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

45. 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**

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

47. Defendant Godfrey Volk is the Administrative Contact for Aloha. An administrative contact is defined as the person or organization authorized by the domain name registrant to act on its behalf.

48. As the administrative contact for Aloha, Volk controls, operates and/or participates in Aloha's unconscionable commercial practice of operating an illegal online gambling site accessible to New Jersey consumers, including Underage Gamblers.

49. Volk 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**

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

51. Defendant Antonio Chang is the technical and billing contact for Aloha.

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

53. Cheng 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 VIII**

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

55. Defendants Jane and John Does are the as yet unidentified owners and operators of Aloha.

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

57. Jane and John Does 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 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, ¶2.
- b. Finding that the acts and/or omissions of defendants constitute multiple instances of unlawful conduct in violation of New Jersey law, *N.J.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 in 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 or 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 any wagers or allowing any other gambling activity from individuals or entities located in the State of New Jersey;
- g. Directing defendants to give to 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 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. 4:56:8-8*;
- i. Assessing the maximum statutory civil penalty against defendants in the amount of \$7,500 for each and every violation of the CFA in accordance with *N.J.S.A. 56:8-1.3*;

- j. Directing the assessment of costs and fees, including attorneys fees, against defendants for the use 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 of 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 Or NEW JERSEY  
Attorney for Plaintiff**

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

Dated: June 18, 2001