



1 NGC 20-02

2  
3  
4  
5 STATE OF NEVADA

6 BEFORE THE NEVADA GAMING COMMISSION

7 NEVADA GAMING CONTROL BOARD,

8 Complainant,

9 vs.

10 WALDMAN INVESTMENTS, INC.  
11 dba BOWL INCLINE,

12 Respondent.

COMPLAINT

13 The State of Nevada, on relation of its NEVADA GAMING CONTROL BOARD  
14 (BOARD), Complainant herein, by and through its counsel, AARON D. FORD, Attorney  
15 General, and JOHN S. MICHELA, Senior Deputy Attorney General, hereby files this  
16 Complaint before the Nevada Gaming Commission (Commission) for disciplinary action  
17 against WALDMAN INVESTMENTS, INC., dba BOWL INCLINE, RESPONDENT herein,  
18 pursuant to Nevada Revised Statute (NRS) 463.310(2), and alleges as follows:

19 **JURISDICTION**

20 1. Complainant, BOARD, is an administrative agency of the State of Nevada duly  
21 organized and existing under and by virtue of Chapter 463 of NRS and is charged with the  
22 administration and enforcement of the gaming laws of this State as set forth in Title 41 of  
23 NRS (Nevada Gaming Control Act) and the Regulations of the Commission.

24 2. RESPONDENT, WALDMAN INVESTMENTS, INC. dba INCLINE BOWL  
25 (RESPONDENT), located at 920 Southwood Boulevard, Incline Village, Nevada, currently  
26 holds a restricted gaming license, and, as such, is charged with the responsibility of  
27 complying with all of the provisions of the Nevada Gaming Control Act and the Regulations  
28 of the Commission.

1 INTRODUCTION

2 3. On March 12, 2020, Nevada Governor Sisolak declared an emergency due to the  
3 COVID-19 pandemic declared by the World Health Organization. COVID-19 is a highly  
4 contagious respiratory illness spread through the close proximity of persons and that has  
5 been spreading throughout the world, including Nevada. In an effort to contain the  
6 COVID-19 pandemic and in an effort to save lives, protect property, and protect the health  
7 and safety of the public, Governor Sisolak has imposed restrictions on individuals and  
8 businesses as further described herein. The BOARD, tasked with ensuring that all  
9 establishments where gaming is conducted and where gaming devices are operated be  
10 licensed, controlled and assisted to protect the public health, safety, morals, good order and  
11 general welfare of the inhabitants of the State, is therefore making every effort to ensure  
12 compliance by Nevada gaming licensees with Governor Sisolak's directives.

13 RELEVANT LAW

14 4. The Nevada Legislature set forth the importance of the gaming industry to the  
15 State of Nevada and its responsibility to the State's inhabitants in NRS 463.0129(1), which  
16 provides as follows:

17 (a) The gaming industry is vitally important to the  
18 economy of the State and the general welfare of the inhabitants.

19 (b) The continued growth and success of gaming is  
20 dependent upon public confidence and trust . . . that  
21 establishments which hold restricted and nonrestricted licenses  
22 where gaming is conducted and where gambling devices are  
23 operated do not unduly impact the quality of life enjoyed by  
24 residents of the surrounding neighborhoods . . . .

25 (c) Public confidence and trust can only be maintained by  
26 strict regulation of all persons, locations, practices, associations  
27 and activities related to the operation of licensed gaming  
28 establishments . . . .

(d) All establishments where gaming is conducted and  
where gaming devices are operated . . . must therefore be  
licensed, controlled and assisted to protect the public health,  
safety, morals, good order and general welfare of the inhabitants  
of the State, to foster the stability and success of gaming and to  
preserve the competitive economy and policies of free  
competition of the State of Nevada.

(e) To ensure that gaming is conducted honestly,  
competitively and free of criminal and corruptive elements, all  
gaming establishments in this state must remain open to the  
general public and the access of the general public to gaming

1 activities must not be restricted in any manner except as  
provided by the Legislature.

2 NRS 463.0129(1).

3 5. To ensure proper oversight and control over the gaming industry, the Nevada  
4 Legislature has granted the Commission "full and absolute power and authority to limit,  
5 condition, restrict, revoke or suspend any license . . . or fine any person licensed . . . for any  
6 cause deemed reasonable by the Commission." NRS 463.1405(4).

7 6. The BOARD is authorized to observe the conduct of licensees in order to  
8 ensure that gaming operations are not being operated in an unsuitable manner or by an  
9 unqualified or unsuitable person. NRS 463.1405(1) and Nev. Gaming Comm'n Reg. 5.040.

10 7. Nevada Revised Statute 463.170 provides in relevant part as follows:

11 1. Any person who the Commission determines is  
12 qualified to receive a license, to be found suitable or to  
13 receive any approval required under the provisions of this  
14 chapter, or to be found suitable regarding the operation of  
15 a charitable lottery under the provisions of chapter 462 of  
16 NRS, having due consideration for the proper protection of  
17 the health, safety, morals, good order and general welfare  
18 of the inhabitants of the State of Nevada and the declared  
19 policy of this State, may be issued a state gaming license,  
be found suitable or receive any approval required by this  
chapter, as appropriate. The burden of proving an  
applicant's qualification to receive any license, be found  
suitable or receive any approval required by this chapter is  
on the applicant.

20 2. An application to receive a license or be found  
suitable must not be granted unless the Commission is  
satisfied that the applicant is:

(a) A person of good character, honesty and integrity;

21 (b) A person whose prior activities, criminal record,  
22 if any, reputation, habits and associations do not pose a  
23 threat to the public interest of this State or to the effective  
24 regulation and control of gaming or charitable lotteries, or  
create or enhance the dangers of unsuitable, unfair or  
illegal practices, methods and activities in the conduct of  
gaming or charitable lotteries or in the carrying on of the  
business and financial arrangements incidental thereto;  
and

25 (c) In all other respects qualified to be licensed or  
found suitable consistently with the declared policy of the  
State.

26 3. A license to operate a gaming establishment or an  
inter-casino linked system must not be granted unless the  
applicant has satisfied the Commission that:

27 (a) The applicant has adequate business probity,  
28 competence and experience, in gaming or generally; and

1 (b) The proposed financing of the entire operation is:  
2 (1) Adequate for the nature of the proposed  
operation; and

3 (2) From a suitable source.

4 ↪ Any lender or other source of money or credit  
5 which the Commission finds does not meet the standards  
6 set forth in subsection 2 may be deemed unsuitable.

7 4. An application to receive a license or be found  
8 suitable constitutes a request for a determination of the  
9 applicant's general character, integrity, and ability to  
10 participate or engage in, or be associated with gaming or  
11 the operation of a charitable lottery, as appropriate. Any  
12 written or oral statement made in the course of an official  
13 proceeding of the Board or Commission by any member  
14 thereof or any witness testifying under oath which is  
15 relevant to the purpose of the proceeding is absolutely  
16 privileged and does not impose liability for defamation or  
17 constitute a ground for recovery in any civil action.

18 . . . .

19 8. Any person granted a license or found suitable by  
20 the Commission shall continue to meet the applicable  
21 standards and qualifications set forth in this section and  
22 any other qualifications established by the Commission by  
23 regulation. The failure to continue to meet such standards  
24 and qualifications constitutes grounds for disciplinary  
25 action.

26 NRS 463.170(1) -- (4) and (8).

27 8. The burden of proving a licensee's qualifications to continue to hold a license  
28 rests at all times on the licensee. Nev. Gaming Comm'n Reg. 5.040.

29 9. Nevada Gaming Commission Regulation 5.010(1) states that it is "the policy  
30 of the Commission and the Board to require that all establishments wherein gaming is  
31 conducted in this state be operated in a manner suitable to protect the public health, safety,  
32 morals, good order and general welfare of the inhabitants of the State of Nevada."

33 10. Nevada Gaming Commission Regulation 5.010(2) states that responsibility  
34 "for the employment and maintenance of suitable methods of operation rests with the  
35 licensee, and willful or persistent use or toleration of methods of operation deemed  
36 unsuitable will constitute grounds for license revocation or other disciplinary action."

37 . . .

38 . . .

39 . . .

1           11.    Nevada Gaming Commission Regulation 5.011 states, in relevant part, as  
2 follows:

3                   1. The Board and the Commission deem any  
4 activity on the part of a licensee, registrant, or person  
5 found suitable by the Commission, or an agent or employee  
6 thereof, that is inimical to the public health, safety, morals,  
7 good order, or general welfare of the people of the State of  
8 Nevada, or that would reflect or tend to reflect discredit  
9 upon the State of Nevada or the gaming industry, to be an  
10 unsuitable method of operation and shall be grounds for  
11 disciplinary action by the Board and the Commission in  
12 accordance with the Nevada Gaming Control Act and the  
13 regulations of the Commission. The following acts or  
14 omissions, without limitation, may be determined to be  
15 unsuitable methods of operation:

16                   (a) Failure to exercise discretion and sound  
17 judgment to prevent incidents which might reflect on the  
18 repute of the State of Nevada and act as a detriment to the  
19 development of the industry.

20                   ....

21                   (h) Failure to comply with or make provision for  
22 compliance with all federal, state, or local laws and  
23 regulations and with all conditions and limitations  
24 approved by the Commission relating to the operations of  
25 a licensed gaming establishment or other gaming business  
26 ...

27                   ....

28                   (k) Failure to conduct gaming operations in  
accordance with proper standards of custom, decorum, and  
decency, or permit a type of conduct in a gaming  
establishment that reflects or tends to reflect on the repute  
of the State of Nevada and act as a detriment to the gaming  
industry.

....

2. The Commission, in the exercise of its sound  
discretion, may make its own determination as to whether  
or not a licensed gaming establishment or other gaming  
business has failed to comply with a law or regulation  
described in paragraph (h) of subsection 1, but any such  
determination shall make use of established precedents  
when interpreting the applicable statute. Nothing in this  
section affects the right of a licensee to judicial review.

Nev. Gaming Comm'n Reg. 5.011(1)(a), (h), and (k), and (2).

...

1 12. NRS 414.070(4) provides in relevant part the following:

2 The provisions of this section are operative only  
3 during the existence of a state of emergency or declaration  
4 of disaster. The existence of such an emergency or disaster  
5 may be proclaimed by the Governor or by resolution of the  
6 Legislature if the Governor in his or her proclamation, or  
7 the Legislature in its resolution, finds that an attack upon  
8 the United States has occurred or is anticipated in the  
9 immediate future, or that a natural, technological or man-  
10 made emergency or disaster of major proportions has  
11 actually occurred within this State, and that the safety and  
12 welfare of the inhabitants of this State require an  
13 invocation of the provisions of this section. Any such  
14 emergency or disaster, whether proclaimed by the  
15 Governor or by the Legislature, terminates upon the  
16 proclamation of the termination thereof by the Governor,  
17 or the passage by the Legislature of a resolution  
18 terminating the emergency or disaster. During the period  
19 when a state of emergency or declaration of disaster exists  
20 or continues, the Governor may exercise the following  
21 additional powers:

22 4. To provide for and compel the evacuation of all or  
23 part of the population from any stricken or threatened area  
24 or areas within the State and to take such steps as are  
25 necessary for the receipt and care of those persons.

26 . . . .

27 7. To perform and exercise such other functions,  
28 powers and duties as are necessary to promote and secure  
the safety and protection of the civilian population.

NRS 414.070(4) and (7).

13. Nevada Gaming Commission Regulation 5.030 provides as follows:

Violation of any provision of the Nevada Gaming  
Control Act or of these regulations by a licensee, the  
licensee's agent or employee shall be deemed contrary to  
the public health, safety, morals, good order and general  
welfare of the inhabitants of the State of Nevada and  
grounds for suspension or revocation of a license.  
Acceptance of a state gaming license or renewal thereof by  
a licensee constitutes an agreement on the part of the  
licensee to be bound by all of the regulations of the  
Commission as the same now are or may hereafter be  
amended or promulgated. It is the responsibility of the  
licensee to keep informed of the content of all such  
regulations, and ignorance thereof will not excuse  
violations.

Nev. Gaming Comm'n Reg. 5.030.

1 14. Nevada Revised Statute 463.310 states in relevant part as follows:

2 1. The Board shall make appropriate investigations:

3 (a) To determine whether there has been any  
4 violation of this chapter or chapter 462, 464, 465 or 466 of  
5 NRS or any regulations adopted thereunder.

6 (b) To determine any facts, conditions, practices or  
7 matters which it may deem necessary or proper to aid in  
8 the enforcement of any such law or regulation.

9 . . . .

10 2. If, after any investigation the Board is satisfied  
11 that:

12 (a) A license, registration, finding of suitability,  
13 preliminary finding of suitability, pari-mutuel license or  
14 prior approval by the Commission of any transaction for  
15 which the approval was required or permitted under the  
16 provisions of this chapter or chapter 462, 464 or 466 of NRS  
17 should be limited, conditioned, suspended or revoked; or

18 (b) A person or entity which is licensed, registered,  
19 found suitable pursuant to this chapter or chapter 464 of  
20 NRS or which previously obtained approval for any act or  
21 transaction for which Commission approval was required  
22 or permitted under the provisions of this chapter or chapter  
23 464 of NRS should be fined,

24 the Board shall initiate a hearing before the Commission  
25 by filing a complaint with the Commission in accordance  
26 with NRS 463.312 and transmit therewith a summary of  
27 evidence in its possession bearing on the matter and the  
28 transcript of testimony at any investigative hearing  
conducted by or on behalf of the Board.

NRS 463.310(1)(a) and (b), and (2).

### 19 BACKGROUND

20 15. On or about March 12, 2020, Steve Sisolak, Governor of the State of Nevada,  
21 issued a Declaration of Emergency for COVID-19 to facilitate the State's response to the  
22 COVID-19 pandemic declared by the World Health Organization.

23 16. On or about March 17, 2020, in furtherance of his Declaration of Emergency,  
24 Governor Sisolak verbally mandated that all gaming machines, devices, table, games, and  
25 any equipment related to gaming activity be shut down effective at midnight.

26 17. On or about March 18, 2020, Governor Sisolak issued Declaration of  
27 Emergency Directive 002, reaffirming his March 17, 2020 verbal order wherein he ordered  
28 that "the Nevada general public shall cease gathering at gaming establishments, and all

1 gaming devices, machines, tables, games, and any equipment related to gaming activity  
2 shall cease operations effective March 17, 2020, at 11:59 p.m., for the duration that this  
3 Directive shall be in effect.”

4 18. On or about April 29, 2020, Governor Sisolak issued Declaration of Emergency  
5 Directive 016 wherein he ordered in relevant part the following:

6 Section 13: Gaming operations, not including licensed  
7 online gaming or mobile wagering operations, shall remain  
8 closed until the Gaming Control Board determines that  
9 operations may safely resume. The Gaming Control Board  
shall promulgate guidance for a phased and incremental  
resumption of gaming operations, as well as criteria  
regarding when operations may resume.

10 19. On or about May 7, 2020, Governor Sisolak issued Declaration of Emergency  
11 Directive 018 – Phase One Reopening wherein he ordered in relevant part the following:

12 Section 17: The prohibition on onsite dining at restaurants  
13 and food establishments in Section 3 of Directive 003 is  
14 hereby amended. All restaurants and food establishments  
15 operating during the state of emergency due to the COVID-  
16 19 pandemic are strongly encouraged to accommodate  
17 vulnerable persons by providing to-go, curbside, and  
delivery options for customers. Restaurants and food  
establishments, including bars and taverns licensed to  
serve food, may provide onsite dining subject to the  
following provisions:

- 18 1. The maximum occupancy for onsite dining shall be 50%  
19 of the maximum seating capacity under normal  
circumstances, excluding bar seating.
- 20 2. Tables or available booths must be spaced, or customers  
21 seated a minimum of 6 feet apart from other customers.
- 22 3. Bar tops and bar areas shall remain closed to  
23 customers, but bar beverages may be served at tables  
24 for onsite consumption.
- 25 4. Customers waiting to dine onsite must wait outside the  
26 establishment until they can be seated and must  
27 practice social distancing by maintaining a minimum of  
28 6 feet of separation between customers not residing in  
the same household.
5. To the maximum extent practicable, restaurants and  
food establishments should require reservations to  
manage occupancy.

Restaurants and food establishments unable to comply  
with Items 1-4, above, may not open for onsite dining, but  
may continue to offer to go, curbside and home delivery to  
customers. Buffets, cafeterias, and self-serve dining



1 facilities shall remain closed until further notice. All other  
2 provisions of Section 3 of Directive 003 not in conflict with  
3 this Section shall remain in effect.

4 Section 21: Section 13 of Directive 016 is hereby amended.  
5 Gaming operations, not including licensed online gaming  
6 or mobile wagering operations, shall remain closed through  
7 Phase One. The Gaming Control Board shall promulgate  
8 guidance for a phased and incremental resumption of  
9 gaming operations.

10 20. On or about May 28, 2020, Governor Sisolak issued Declaration of Emergency  
11 Directive 021 – Phase Two Reopening Plan wherein he ordered in relevant part the  
12 following:

13 Section 35: Directive 002 and Section 021 of Directive 018  
14 are hereby terminated. The Nevada Gaming Control  
15 Board shall promulgate requirements for a phased and  
16 incremental resumption of gaming operations, with  
17 openings commencing no sooner than 12:01 am June 4,  
18 2020. Failure of a gaming licensee to comply with any such  
19 requirements shall be considered injurious to the public  
20 health, safety, morals, good order and general welfare of  
21 the inhabitants of the State, and constitute a failure to  
22 comply with this Directive. The Nevada Gaming Control  
23 Board is hereby authorized to enforce this Directive as  
24 necessary, including, but without limitation, pursuing  
25 disciplinary action to limit, condition, suspend, and/or  
26 revoke a license, and/or impose a monetary fine against a  
27 licensee in accordance with the Gaming Control Act.

28 21. On or about July 10, 2020, Governor Sisolak issued Declaration of Emergency  
Directive 027 wherein he ordered in relevant part the following:

Section 5: Directive 021, Section 25 is hereby rescinded.  
Restaurants and food establishments, and bars, pubs,  
taverns, breweries, distilleries, and wineries licensed to  
serve food in a restaurant-type setting, whether or not in a  
restricted or nonrestricted gaming establishment, shall  
operate under the Phase One conditions set forth in Section  
17 of Directive 018, as amended above, when located in a  
county with an Elevated Disease Transmission and  
according to the criteria published by the Department of  
Health and Human Services. Bar tops and bar areas in any  
establishment in a county with an Elevated Disease  
Transmission and according to the criteria published by  
the Department of Health and Human Services shall be  
closed to customers, but bar beverages may be served at  
tables for onsite consumption. Customers must only be  
served via table services and may not order from bar top  
areas.

1 Section 12: This Directive is effective at 11:59 p.m. on  
2 Friday, July 10, 2020 and shall remain in effect until  
3 terminated by a subsequent Directive promulgated  
4 pursuant to the March 12, 2020 Declaration of Emergency  
5 to facilitate the State's response to the COVID-19  
6 pandemic.

7 22. At all times relevant to this Complaint, Washoe County, Nevada was  
8 designated a county with an Elevated Disease Transmission according to the criteria  
9 published by the Department of Health and Human Services.

10 23. RESPONDENT is located in Washoe County, Nevada.

11 **COUNT I**  
12 **VIOLATION OF NEVADA GAMING COMMISSION REGULATION 5.011**

13 24. The BOARD realleges and incorporates the above paragraphs by reference as  
14 though set forth in full herein.

15 25. On or about July 11, 2020, at approximately 5:30 p.m., a BOARD agent  
16 conducted observations at RESPONDENT.

17 26. While conducting observations, the BOARD agent observed that the bar top  
18 slot machines were still in service and available for patron play with chairs in front of every  
19 other slot machine.

20 27. The failure to comply with Nevada Gaming Commission Regulation 5.011 is  
21 an unsuitable method of operation and provides grounds for disciplinary action against  
22 RESPONDENT. See Nev. Gaming Comm'n Reg. 5.010(2) and 5.030.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, based upon the allegations contained herein, which constitute  
25 reasonable cause for disciplinary action against RESPONDENT, pursuant to NRS 463.310  
26 and/or NGC Regulations 5.010, 5.011, and/or 5.030, the Board prays for relief as follows:

27 1. That the Commission serve a copy of this Complaint on RESPONDENT  
28 pursuant to NRS 463.312(2);

1. That the Commission fine RESPONDENT a monetary sum pursuant to the  
parameters defined at NRS 463.310(4) for each separate violation of the provisions of the  
Nevada Gaming Control Act or the Regulations of the Commission;

