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NGC 10-12

STATE OF NEVADA

BEFORE THE NEVADA GAMING COMMISSION

STATE GAMING CONTROL BOARD, )  
Complainant, )  
vs. )  
WILD GAME NG, LLC., doing business as )  
SIENA HOTEL SPA & CASINO, )  
Respondent )

COMPLAINT

The State of Nevada, on relation of its State Gaming Control Board (BOARD), Complainant herein, by and through its counsel, CATHERINE CORTEZ MASTO, Attorney General, by JOHN S. MICHELA, Deputy Attorney General, hereby files this Complaint for disciplinary action against RESPONDENT pursuant to Nevada Revised Statute (NRS) 463.310(2) and 463.311(5) and alleges as follows:

1. Complainant, BOARD, is an administrative agency of the State of Nevada duly organized and existing under and by virtue of chapter 463 of NRS and is charged with the administration and enforcement of the gaming laws of this state as set forth in Title 41 of NRS and the Regulations of the Nevada Gaming Commission.

2. WILD GAME NG, LLC, (RESPONDENT) holds a nonrestricted gaming license and conducts gaming operations as a Group I licensee as the SIENA HOTEL SPA & CASINO located at 1 South Lake Street, Reno, Nevada.

3. Pursuant to NRS 463.311(5) this Complaint is filed within five (5) days of the issuance of an emergency order by the Nevada Gaming Commission concerning RESPONDENT.

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Office of the Attorney General  
Gaming Division  
5420 Kietzke Lane, Suite 202  
Reno, Nevada 89511

**RELEVANT LAW**

4. The Nevada Legislature has declared under NRS 463.0129(1) that:

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

(b) The continued growth and success of gaming is dependent upon public confidence and trust that licensed gaming and the manufacture, sale and distribution of gaming devices and associated equipment are conducted honestly and competitively, that establishments which hold restricted and nonrestricted licenses where gaming is conducted and where gambling devices are operated do not unduly impact the quality of life enjoyed by residents of the surrounding neighborhoods, that the rights of the creditors of licensees are protected and that gaming is free from criminal and corruptive elements.

(c) Public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, associations and activities related to the operation of licensed gaming establishments, the manufacture, sale or distribution of gaming devices and associated equipment and the operation of inter-casino linked systems.

NRS 463.0129(1)(a), (b) and (c).

5. The Nevada Gaming Commission has full and absolute power and authority to limit, condition, restrict, revoke or suspend any license, or fine any person licensed, for any cause deemed reasonable. See NRS 463.1405(4).

6. The BOARD is authorized to observe the conduct of licensees in order to ensure that the gaming operations are not being conducted in an unsuitable manner. See NRS 463.1405(1).

7. This continuing obligation is repeated in Nevada Gaming Commission Regulation 5.040, which provides as follows:

A gaming license is a revocable privilege, and no holder thereof shall be deemed to have acquired any vested rights therein or thereunder. The burden of proving his qualifications to hold any license rests at all times on the licensee. The board is charged by law with the duty of observing the conduct of all licensees to the end that licenses shall not be held by unqualified or disqualified persons or unsuitable persons or persons whose operations are conducted in an unsuitable manner.

Nev. Gaming Comm'n Reg. 5.040.

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1 8. Nevada Gaming Commission Regulation 5.010 provides as follows:

2 1. It is the policy of the commission and the board to require that  
3 all establishments wherein gaming is conducted in this state be  
4 operated in a manner suitable to protect the public health, safety,  
5 morals, good order and general welfare of the inhabitants of the State of  
6 Nevada.

7 2. Responsibility for the employment and maintenance of suitable  
8 methods of operation rests with the licensee, and willful or persistent  
9 use or toleration of methods of operation deemed unsuitable will  
10 constitute grounds for license revocation or other  
11 disciplinary action.

12 Nev. Gaming Comm'n Reg. 5.010.

13 9. Nevada Gaming Commission Regulation 6.150 provides as follows:

14 1. The chairman may adopt or revise a bankroll formula  
15 that specifies the minimum bankroll requirements applicable to  
16 restricted gaming licensees, nonrestricted gaming licensees and  
17 persons licensed as an operator of an inter-casino linked system or  
18 as an operator of a slot machine route, along with instructions for  
19 computing available bankroll.

20 2. At least 30 days before adopting or revising the bankroll  
21 formula, the chairman shall:

22 (a) Publish notice of the proposed adoption or revisions,  
23 together with the effective date thereof, once a day for seven (7)  
24 consecutive days in a newspaper of daily general circulation, one  
25 of which is published in Reno, Nevada, and the other published in  
26 Las Vegas, Nevada;

27 (b) Mail a copy of the proposed bankroll formula or  
28 revisions, together with the effective date thereof, to each  
restricted gaming licensee, nonrestricted gaming licensee,  
operator of an inter-casino linked system, operator of a slot  
machine route, and every other person who has filed a request  
therefore with the board or commission; and

(c) Provide a copy of the proposed bankroll formula or  
revisions and their effective date to the commission.

3 3. Any affected licensee may object to the proposed  
bankroll formula or revisions, by filing a request for a review of the  
chairman's administrative decision, pursuant to Regulation 4.190.  
If any licensee files a request for review, then the effective date of  
the proposed bankroll formula or revisions will be stayed pending  
action by the board, and if the board's decision is appealed  
pursuant to Regulation 4.195, pending action by the commission. If  
no requests for review are filed with the board, then the bankroll  
formula or revisions shall become effective on the date set by the  
chairman.

4 4. Any licensee may propose the repeal or revision of any  
existing bankroll formula by submitting a request to the chairman,  
who shall consider the request at his discretion. If such a request  
is approved by the chairman, then the proposed repeal or revision  
must be processed in accordance with subsections 2 and 3. If

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such a request is denied by the chairman, then the licensee may file the request for a review as an administrative approval decision with the board pursuant to Regulation 4.190, and the commission, pursuant to Regulation 4.195.

5. Each restricted gaming licensee, nonrestricted gaming licensee and each person licensed as an operator of an inter-casino linked system or as an operator of a slot machine route shall maintain in accordance with the bankroll formula adopted by the chairman pursuant to the requirements of this section, cash or cash equivalents in an amount sufficient to reasonably protect the licensee's or operator's patrons against defaults in gaming debts owed by the licensee or operator. If at any time the licensee's or operator's available cash or cash equivalents should be less than the amount required by this section, the licensee or operator shall immediately notify the board of this deficiency and shall also detail the means by which the licensee shall comply with the minimum bankroll requirements. Failure to maintain the minimum bankroll required by this section, or a higher bankroll as required by the chairman pursuant to this section, or failure to notify the board as required by this section, is an unsuitable method of operation.

6. Records reflecting accurate, monthly computations of bankroll requirements and actual bankroll available shall be maintained by nonrestricted gaming licensees, operators of intercasino linked systems and operators of slot machine routes in accordance with Regulation 6.060. The chairman, in his sole discretion, may require more frequent computations, require additional recordkeeping not specified in the formula, or require the licensee to maintain a bankroll higher than is or would otherwise be required by the bankroll formula, or require recordkeeping by restricted gaming licensees.

7. Neither this section nor a bankroll formula adopted pursuant to it alters, amends, supersedes or removes any condition of any licensee or approval imposed on any licensee by the commission.

8. The chairman, for good cause shown by the licensee, may waive one or more of the requirements or provisions of the minimum bankroll requirements.

9. The chairman is hereby granted the authority to revoke any waiver granted pursuant to this section for any cause deemed reasonable. Notice of the revocation of a waiver shall be deemed delivered and effective when personally served upon the licensee, or if personal service is impossible or impractical, when deposited, postage prepaid, in the United States mail, to the licensee at the address of the establishment as shown in the records of the commission. If a notice revoking or suspending the waiver of a bankroll requirement is issued, the affected licensee may request that the decision of the chairman be reviewed by the board and commission pursuant to NGC Regulation 4.185 through 4.195, inclusive.

Nev. Gaming Comm'n Reg. 6.150.

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10. Nevada Gaming Regulation 6.010 provides as follows:

As used in this regulation:

- 1. Unless otherwise specified, "chairman" means the chairman of the state gaming control board or his designee.
- 2. "Business year" means the annual period used by a licensee for internal accounting purposes.
- 3. "Electronic transfer" means the transmission of money as described in NRS 463.01473, or data via an electronic terminal, a telephone, a magnetic tape or a computer and a modem to the state gaming control board or the Nevada gaming commission.
- 4. "Fiscal year" means a period beginning on July 1st and ending June 30th of the following year.
- 5. "Group I licensee" defined.
  - (a) "Group I licensee" means either:
    - (1) A nonrestricted licensee having gross revenue of \$5,639,000 or more for the 12 months ended June 30th each year; or
    - (2) A nonrestricted licensee, whose operation consists primarily of a race book or sports pool or both, that accepts \$63,476,000 or more in wagers during the 12 months ended June 30th each year.
  - (b) Once a nonrestricted licensee qualifies as a "Group I licensee" pursuant to the definitions contained within this section, it shall remain a "Group I licensee" in subsequent years. This "Group I licensee" designation shall continue unless cancelled in writing by the chairman or his designee, even if the increase or decrease in the Consumer Price Index as provided for in section 7 would otherwise cause the licensee's designation to change to a "Group II licensee."

Nev. Gaming Comm'n Reg. 6.010.

11. Nevada Revised Statute 463.270 states, in relevant part, as follows:

5. Any person failing to pay any state license fees or taxes due at the times respectively provided shall pay in addition to such license fees or taxes a penalty of not less than \$50 or 25 percent of the amount due, whichever is the greater, but not more than \$1,000 if the fees or taxes are less than 10 days late and in no case in excess of \$5,000. The penalty must be collected as are other charges, license fees and penalties under this chapter.

NRS 463.270(5).

12. Nevada Revised Statute 463.370 states as follows:

1. Except as otherwise provided in NRS 463.373, the Commission shall charge and collect from each licensee a license fee based upon all the gross revenue of the licensee as follows:

1 (a) Three and one-half percent of all the gross revenue of the  
licensee which does not exceed \$50,000 per calendar month;

2 (b) Four and one-half percent of all the gross revenue of the  
3 licensee which exceeds \$50,000 per calendar month and does not  
exceed \$134,000 per calendar month; and

4 (c) Six and three-quarters percent of all the gross revenue of  
the licensee which exceeds \$134,000 per calendar month.

5 2. Unless the licensee has been operating for less than a full  
6 calendar month, the Commission shall charge and collect the fee  
7 prescribed in subsection 1, based upon the gross revenue for the  
8 preceding calendar month, on or before the 24th day of the following  
month. Except for the fee based on the first full month of operation,  
9 the fee is an estimated payment of the license fee for the third month  
10 following the month whose gross revenue is used as its basis.

11 3. When a licensee has been operating for less than a full  
12 calendar month, the Commission shall charge and collect the fee  
13 prescribed in subsection 1, based on the gross revenue received  
14 during that month, on or before the 24th day of the following calendar  
15 month of operation. After the first full calendar month of operation, the  
16 Commission shall charge and collect the fee based on the gross  
17 revenue received during that month, on or before the 24th day of the  
following calendar month. The payment of the fee due for the first full  
18 calendar month of operation must be accompanied by the payment of  
19 a fee equal to three times the fee for the first full calendar month. This  
20 additional amount is an estimated payment of the license fees for the  
21 next 3 calendar months. Thereafter, each license fee must be paid in  
22 the manner described in subsection 2. Any deposit held by the  
23 Commission on July 1, 1969, must be treated as an advance  
24 estimated payment.

25 4. All revenue received from any game or gaming device which  
26 is operated on the premises of a licensee, regardless of whether any  
27 portion of the revenue is shared with any other person, must be  
28 attributed to the licensee for the purposes of this section and counted  
as part of the gross revenue of the licensee. Any other person,  
including, without limitation, an operator of an inter-casino linked  
system, who is authorized to receive a share of the revenue from any  
game, gaming device or inter-casino linked system that is operated on  
the premises of a licensee is liable to the licensee for that person's  
proportionate share of the license fees paid by the licensee pursuant  
to this section and shall remit or credit the full proportionate share to  
the licensee on or before the 24th day of each calendar month. The  
proportionate share of an operator of an inter-casino linked system  
must be based on all compensation and other consideration received  
by the operator of the inter-casino linked system, including, without  
limitation, amounts that accrue to the meter of the primary progressive  
jackpot of the inter-casino linked system and amounts that fund the  
reserves of such a jackpot, subject to all appropriate adjustments for  
deductions, credits, offsets and exclusions that the licensee is entitled

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to take or receive pursuant to the provisions of this chapter. A licensee is not liable to any other person authorized to receive a share of the licensee's revenue from any game, gaming device or inter-casino linked system that is operated on the premises of the licensee for that person's proportionate share of the license fees to be remitted or credited to the licensee by that person pursuant to this section.

5. An operator of an inter-casino linked system shall not enter into any agreement or arrangement with a licensee that provides for the operator of the inter-casino linked system to be liable to the licensee for less than its full proportionate share of the license fees paid by the licensee pursuant to this section, whether accomplished through a rebate, refund, charge-back or otherwise.

6. Any person required to pay a fee pursuant to this section shall file with the Commission, on or before the 24th day of each calendar month, a report showing the amount of all gross revenue received during the preceding calendar month. Each report must be accompanied by:

(a) The fee due based on the revenue of the month covered by the report; and

(b) An adjustment for the difference between the estimated fee previously paid for the month covered by the report, if any, and the fee due for the actual gross revenue earned in that month. If the adjustment is less than zero, a credit must be applied to the estimated fee due with that report.

7. If the amount of license fees required to be reported and paid pursuant to this section is later determined to be greater or less than the amount actually reported and paid, the Commission shall:

(a) Charge and collect the additional license fees determined to be due, with interest thereon until paid; or

(b) Refund any overpayment to the person entitled thereto pursuant to this chapter, with interest thereon.

→ Interest pursuant to paragraph (a) must be computed at the rate prescribed in NRS 17.130 from the first day of the first month following the due date of the additional license fees until paid. Interest pursuant to paragraph (b) must be computed at one-half the rate prescribed in NRS 17.130 from the first day of the first month following the date of overpayment until paid.

8. Failure to pay the fees provided for in this section shall be deemed a surrender of the license at the expiration of the period for which the estimated payment of fees has been made, as established in subsection 2.

9. Except as otherwise provided in NRS 463.386, the amount of the fee prescribed in subsection 1 must not be prorated.

10. Except as otherwise provided in NRS 463.386, if a licensee ceases operation, the Commission shall:

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(a) Charge and collect the additional license fees determined to be due with interest computed pursuant to paragraph (a) of subsection 7; or

(b) Refund any overpayment to the licensee with interest computed pursuant to paragraph (b) of subsection 7, → based upon the gross revenue of the licensee during the last 3 months immediately preceding the cessation of operation, or portions of those last 3 months.

11. If in any month, the amount of gross revenue is less than zero, the licensee may offset the loss against gross revenue in succeeding months until the loss has been fully offset.

12. If in any month, the amount of the license fee due is less than zero, the licensee is entitled to receive a credit against any license fees due in succeeding months until the credit has been fully offset.

NRS 463.370.

13. Nevada Revised Statute 463.375 states as follows:

1. In addition to any other state gaming license fees provided for in this chapter, before issuing a state gaming license to an applicant for a nonrestricted operation, the Commission shall charge and collect from the applicant a license fee of \$80 for each slot machine for each calendar year.

2. The Commission shall charge and collect the fee prescribed in subsection 1, at the rate of \$20 for each slot machine for each calendar quarter:

(a) On or before the last day of the last month in a calendar quarter, for the ensuing calendar quarter, from a licensee whose operation is continuing.

(b) In advance from a licensee who begins operation or puts additional slot machines into play during a calendar quarter.

3. Except as provided in NRS 463.386, no proration of the quarterly amount prescribed in subsection 2 may be allowed for any reason.

4. The operator of the location where slot machines are situated shall pay the fee prescribed in subsection 1 upon the total number of slot machines situated in that location, whether the machines are owned by one or more licensee-owners.

5. Any other person, including, without limitation, an operator of an inter-casino linked system, who is authorized to receive a share of the revenue from any slot machine that is operated on the premises of a licensee is liable to the licensee for that person's proportionate share of the license fees paid by the licensee pursuant to this section and shall remit or credit the full proportionate share to the licensee on



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or before the dates set forth in subsection 2. A licensee is not liable to any other person authorized to receive a share of the licensee's revenue from any slot machine that is operated on the premises of a licensee for that person's proportionate share of the license fees to be remitted or credited to the licensee by that person pursuant to this section.

NRS 463.375.

14. Nevada Revised Statute 463.385 states, in relevant part, as follows:

1. In addition to any other license fees and taxes imposed by this chapter, there is hereby imposed upon each slot machine operated in this State an annual excise tax of \$250. If a slot machine is replaced by another, the replacement is not considered a different slot machine for the purpose of imposing this tax.

2. The Commission shall:

(a) Collect the tax annually on or before June 30, as a condition precedent to the issuance of a state gaming license to operate any slot machine for the ensuing fiscal year beginning July 1, from a licensee whose operation is continuing.

(b) Collect the tax in advance from a licensee who begins operation or puts additional slot machines into play during the fiscal year, prorated monthly after July 31.

(c) Include the proceeds of the tax in its reports of state gaming taxes collected.

NRS 463.385 (1) and (2).

15. Nevada Revised Statute 368A.200 states, in relevant part, as follows:

1. Except as otherwise provided in this section, there is hereby imposed an excise tax on admission to any facility in this State where live entertainment is provided. If the live entertainment is provided at a facility with a maximum occupancy of:

(a) Less than 7,500 persons, the rate of the tax is 10 percent of the admission charge to the facility plus 10 percent of any amounts paid for food, refreshments and merchandise purchased at the facility.

(b) At least 7,500 persons, the rate of the tax is 5 percent of the admission charge to the facility.

2. Amounts paid for:

a) Admission charges collected and retained by a nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c), or by a nonprofit corporation organized or existing under the provisions of chapter 82 of NRS, are not taxable pursuant to this section.

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(b) Gratuities directly or indirectly remitted to persons employed at a facility where live entertainment is provided or for service charges, including those imposed in connection with the use of credit cards or debit cards, which are collected and retained by persons other than the taxpayer are not taxable pursuant to this section.

NRS 368A.200 (1) and (2).

16. Nevada Revised Statute 368A.220 states as follows:

1. Except as otherwise provided in this section:

(a) Each taxpayer who is a licensed gaming establishment shall file with the Board, on or before the 24th day of each month, a report showing the amount of all taxable receipts for the preceding month or the month in which the taxable events occurred. The report must be in a form prescribed by the Board.

(b) All other taxpayers shall file with the Department, on or before the last day of each month, a report showing the amount of all taxable receipts for the preceding month. The report must be in a form prescribed by the Department.

2. The Board or the Department, if it deems it necessary to ensure payment to or facilitate the collection by the State of the tax imposed by NRS 368A.200, may require reports to be filed not later than 10 days after the end of each calendar quarter.

3. Each report required to be filed by this section must be accompanied by the amount of the tax that is due for the period covered by the report.

4. The Board and the Department shall deposit all taxes, interest and penalties it receives pursuant to this chapter in the State Treasury for credit to the State General Fund.

NRS 368A.220.

17. Nevada Gaming Commission Regulation 5.011 states, in relevant part, as follows:

The board and the commission deem any activity on the part of any licensee, his agents or employees, that is inimical to the public health, safety, morals, good order and general welfare of the people of the State of Nevada, or that would reflect or tend to reflect discredit upon the State of Nevada or the gaming industry, to be an unsuitable method of operation and shall be grounds for disciplinary action by the board and the commission in accordance with the Nevada Gaming Control Act and the regulations of the board and the commission. Without limiting the generality of the foregoing, the following acts or omissions may be determined to be unsuitable methods of operation:

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8. Failure to comply with or make provision for compliance with all federal, state and local laws and regulations pertaining to the operations of a licensed establishment including, without limiting the generality of the foregoing, payment of all license fees, withholding any payroll taxes, liquor and entertainment taxes and antitrust and monopoly statutes.

Nev. Gaming Comm'n Reg. 5.011 (8).

18. Nevada Gaming Commission Regulation 6.090, in relevant part, provides as follows:

As used in this section, "licensee" means a Group I licensee and "chairman" means the chairman or other member of the state gaming control board.

1. Each licensee shall establish administrative and accounting procedures for the purpose of determining the licensee's liability for taxes and fees under chapters 463 and 464 of NRS and for the purpose of exercising effective control over the licensee's internal fiscal affairs. The procedures must be designed to reasonably ensure that:

- (a) Assets are safeguarded;
- (b) Financial records are accurate and reliable;
- (c) Transactions are performed only in accordance with management's general or specific authorization;
- (d) Transactions are recorded adequately to permit proper reporting of gaming revenue and of fees and taxes, and to maintain accountability for assets;
- (e) Access to assets is permitted only in accordance with management's specific authorization;
- (f) Recorded accountability for assets is compared with actual assets at reasonable intervals and appropriate action is taken with respect to any discrepancies; and
- (g) Functions, duties, and responsibilities are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel.

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3. The chairman shall adopt and publish minimum standards for internal control procedures that in the chairman's opinion satisfy subsection 1.

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8. The licensee may not implement a system of internal control procedures that does not satisfy the minimum standards unless the chairman, in his sole discretion, determines that the licensee's

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proposed system satisfies subsection 1, and approves the system in writing. Within 30 days after a licensee receives notice of the chairman's approval of procedures that satisfy the requirements of subsection 1, but that do not satisfy the minimum standards, the licensee shall comply with the approved procedures, amend its written system accordingly, and submit to the board a copy of the written system as amended and a written description of the variations signed by the licensee's chief financial officer and either the licensee's chief executive officer or a licensed owner.

9. Each licensee shall require the independent accountant engaged by the licensee to examine the financial statements or to review the licensee's financial statements to submit to the licensee 2 copies of a written report of the compliance of the procedures and written system with the minimum internal control standards. Using the criteria established by the chairman, the independent accountant shall report each event and procedure discovered by or brought to the accountant's attention that the accountant believes does not satisfy the minimum standards or variations from the standards that have been approved by the chairman pursuant to subsection 8.

Not later than 150 days after the end of the licensee's business year, the licensee shall submit a copy of the accountant's report or any other correspondence directly relating to the licensee's systems of internal control to the board accompanied by the licensee's statement addressing each item of noncompliance noted by the accountant and describing the corrective measures taken. Unless the chairman approves otherwise in writing, in the event of a license termination, change in business entity, or a change in the percentage of ownership of more than 20 percent, the licensee or former licensee shall, not later than 150 days after the event, submit a copy of the accountant's report or any other correspondence directly relating to the licensee's systems of internal control to the board accompanied by the licensee's statement addressing each item of noncompliance noted by the accountant and describing the corrective measures taken covering the period since the period covered by the previous report. If a license termination, change in business entity, or a change in the percentage of ownership of more than 20 percent occurs within 150 days after the end of a business year for which a report has not been submitted, the licensee may submit a report covering both the business year and the final period of business.

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15. Using guidelines, checklists, and other criteria established by the chairman, the licensee's internal auditor shall perform observations, document examinations, and inquiries of employees to determine compliance with applicable statutes, regulations, and minimum internal control standards. Two copies of the internal

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auditor's report summarizing all instances of noncompliance and management responses must be submitted to the board within 120 days after the end of the first six months of the licensee's business year and must include all work required to be performed during that six-month period along with any additional procedures that were performed. Noncompliance noted in the second half of the business year must be submitted to the board within 120 days after the end of the business year unless the noncompliance is to be disclosed in the independent accountant's report submitted pursuant to Regulation 6.090(9).

Nev. Gaming Comm'n Reg. 6.090 (1), (3), (8), (9), and (15).

19. Minimum Internal Control Standards Slots (MICS Slots), Minimum Internal Control Standards Table Games (MICS Games), and Minimum Internal Control Standards Information Technology (MICS IT) apply to Group I licensees. Unless otherwise indicated, all citations to MICS Slots and MICS IT refer to Version 6. Version 6 of MICS Slots and MICS IT has an effective date of January 1, 2009. Version 5 (V5) of MICS Slots had effective dates of October 1, 2003, through December 31, 2008.

20. MICS Slots No. 45 (V5) states that "The dollar amount of wagering instruments removed from each drop box is recorded, by machine, in the cashless wagering system. The cashless wagering system will generate a slot count document indicating the wagering instruments counted by machine and in total."

21. MICS Slots No. 110 (V5) states that:

A report is produced at least monthly showing month-to-date, year-to-date, and if practicable, life-to-date actual hold percentage computations for individual machines and a comparison to each machine's theoretical hold percentage previously discussed.

Note 1: Actual hold = dollar amount of slot machine statistical win divided by dollar amount of coin-in. The wagering activity recorded on the coin-in meter of the slot machine includes all cashable and non-cashable credits wagered. The slot machine statistical win represents all drop and payout activity occurring through the slot machine regardless of whether the activity is subject to gross gaming revenue taxation. The drop and payout activity occurring through the slot machine includes the following:

a. The payout activity represents only slot machine payouts associated with the manufacturer's payable of the slot machine. Jackpot payouts (as defined by Regulation 1.140) and fills recorded in

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the slot analysis report do not include promotional payouts and/or bonus payouts that are not reflected on the payable of the slot machine and/or not included in the calculation of the slot machine's theoretical hold percentage.

b. The drop activity recorded in the slot analysis report includes all amounts placed into the coin or bill acceptor of the slot machine (e.g., free play wagering instruments accepted by the bill validator of the slot machine are included in the drop amount) or electronic money transfers made to the slot machine for wagering purposes.

As a result, the slot machine statistical win recorded in the slot analysis report may not equal the amount of win reported on the NGC tax returns.

Note 2: "Life-to-Date" represents at least a previous two-year cumulative basis.

22. MICS Slots No. 131 (V5) states in relevant part:

In addition to the slot machine performance reports under MICS #130, the following reports are produced and maintained for each drop (hard or soft) date, by machine and in total:

.....

b. System wagering instruments accepted vs. wagering instruments counted in the count room (e.g., vouchers and coupons).

23. MICS Slots No. 132 (V5) states in relevant part:

Variances, by slot machine, noted in the reports required by MICS #130 and #131 that are in excess of the following parameters are reviewed by the accounting department:

a. Variances in excess of one percent or \$100, whichever amount is greater, for each drop type (coin, bills, vouchers and coupons).

.....

24. MICS Slots No. 66 states in relevant part:

Manual and computerized payouts, including jackpots, fills, cancelled credits, short pays exceeding \$10 and promotional payouts exceeding \$100 that are deducted from gross gaming revenue, are controlled and completed in a manner that precludes any one individual from initiating and producing a fraudulent payout form, obtaining the funds, forging signatures on the payout form, routing all parts of the form, and misappropriating the funds.

.....

1           25. MICS Games No. 72 states: "The accuracy of inventory forms prepared at shift end  
2 is verified by either two pit supervisors or one pit supervisor and one supervisor from another  
3 gaming department."

4           26. MICS Games No. 74 states:

5                       For computerized systems, the individuals who perform the  
6 table inventory count do not have system access to change or delete  
7 table inventory amounts after the count's initial input. If it becomes  
8 necessary to change the count figures after the end of shift,  
9 accounting/audit personnel may change the inventory counts with the  
10 approval of the pit supervisor.

11           27. MICS Games No. 76 states: "Procedures are implemented to ensure that  
12 unauthorized access to empty table game drop boxes does not occur from the time the boxes  
13 leave the storage racks until the boxes are placed on the tables."

14           28. MICS IT No. 10 states:

15                       Management personnel, or persons independent of the  
16 department being controlled, establish, or review and approve, user  
17 accounts for new employees. Provisioning for user accounts consist  
18 of assigning application functions matching the employee's current job  
19 responsibilities, unless otherwise authorized by management  
20 personnel, to ensure adequate separation of duties.

21           29. MICS IT No. 22 states:

22                       Access to administer the network, operating system,  
23 applications, and database security and system parameters is limited  
24 to supervisory and/or management employees of the IT department or  
25 IT employees under the supervision of supervisory and/or  
26 management employees of the IT department. If there is no IT  
27 department, supervisory or management personnel independent of  
28 the department using such system and/or application may perform the  
administrative procedures.

.....  
29           30. Nevada Gaming Commission Regulation 6.060 provides as follows:

30                       Each licensee shall provide the audit division, or the tax and  
31 license division, upon request, with the records required to be  
32 maintained by Regulation 6. Unless the chairman approves or  
33 requires otherwise in writing, each licensee shall retain all such  
34 records within Nevada for at least 5 years after they are made.

1 Failure to keep and provide such records is an unsuitable method of  
operation.

2 Nev. Gaming Comm'n Reg. 6.060.

3 31. Nevada Gaming Commission Regulation 6.080 provides, in relevant part, as  
4 follows:

5 2. [Effective on 1/01/09] Each nonrestricted licensee having  
6 gross revenue of \$11,277,000 or more, or accepting \$83,775,000 or  
7 more in wagers if the operation consists primarily of a race book or  
8 sports pool or both, during the 12 months ended December 31st each  
9 year, and each operator, shall engage an independent accountant  
who shall audit the licensee's financial statements in accordance with  
generally accepted auditing standards.

10 . . . .

11 6. Each licensee shall submit to the board 2 copies of its  
12 audited or reviewed financial statements not later than 120 days after  
the last day of the licensee's business year. . . .

13  
14 Nev. Gaming Comm'n Reg. 6.080 (2) and (6).

15 32. Nevada Revised Statute 463.335 provides, in relevant part, as follows:

16 1. The Legislature finds that, to protect and promote the health,  
17 safety, morals, good order and general welfare of the inhabitants of  
the State of Nevada and to carry out the policy declared in NRS  
18 463.0129, it is necessary that the Board:

19 (a) Ascertain and keep itself informed of the identity, prior  
activities and present location of all gaming employees in the State of  
20 Nevada; and;

21 (b) Maintain confidential records of such information.

22 2. A person may not be employed as a gaming employee  
unless he is temporarily registered or registered as a gaming  
23 employee pursuant to this section. An applicant for registration or  
renewal of registration as a gaming employee must file an application  
24 for registration or renewal of registration with the Board. Whenever a  
registered gaming employee, whose registration has not expired, has  
25 not been objected to by the Board, or has not been suspended or  
revoked becomes employed as a gaming employee at another or  
26 additional gaming establishment, he must file a change of  
employment notice within 10 days with the Board. The application for  
27 registration and change of employment notice must be filed through  
the licensee for whom the applicant will commence or continue

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working as a gaming employee, unless otherwise filed with the Board as prescribed by regulation of the Commission.

....

NRS 463.335 (1) and (2).

33. 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, his 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 himself informed of the content of all such regulations, and ignorance thereof will not excuse violations.***

Nev. Gaming Comm'n Reg. 5.030 (emphasis added).

34. The minimum bankroll requirement as set forth within Nevada Gaming Commission Regulation 6.150 is determined pursuant to a bankroll formula established by the BOARD Chairman and approved by the Commission. A copy of the Bankroll Formula, as well as an Overview Explanation of the Bankroll Requirements, and the Bankroll Instructions are attached hereto as Exhibits A, B, and C, respectively, and made a part hereof as if fully set forth.

**COUNT ONE**

**VIOLATION OF NEVADA GAMING COMMISSION REGULATION 6.150 AND THE BANKROLL FORMULA PROMULGATED THEREUNDER**

35. Complainant BOARD realleges and incorporates by reference as though set forth in full herein paragraphs 1 through 34 above.

36. As a nonrestricted Group I gaming licensee, RESPONDENT is required to maintain a minimum bankroll pursuant to a bankroll formula adopted by the BOARD Chairman and approved by the Commission pursuant to Nevada Gaming Commission Regulation 6.150.

37. The bankroll formula provides that a nonrestricted gaming licensee's cash or cash equivalents must be "in an amount sufficient to reasonably protect the licensee's . . . patrons

1 against defaults in gaming debts owed by the licensee. . . .” Nev. Gaming Comm’n Regulation  
2 6.150(5). Failure to maintain the minimum bankroll required by this section . . . is an  
3 unsuitable method of operation.” *Id.*

4 38. On December 18, 2009, the BOARD’s Audit Division learned of RESPONDENT’s  
5 failure to meet bankroll requirements. In response, the Audit Division requested, and  
6 RESPONDENT provided, a report setting out RESPONDENT’s daily bankroll requirement and  
7 the amount of excess or deficiency of cash or cash equivalents on hand, as well as for the  
8 next business day, as prescribed by the bankroll formula to determine whether or not  
9 RESPONDENT was able to meet its gaming and other obligations as they became due for the  
10 period of November 30, 2009, through December 22, 2009. The Audit Division requested,  
11 and RESPONDENT provided, daily reports of the above described nature starting December  
12 23, 2009.

13 39. Starting November 30, 2009, through January 4, 2010, the bankroll submissions  
14 submitted by RESPONDENT to the BOARD’s Audit Division did not meet the minimum  
15 bankroll requirement, as set out in the bankroll formula, for thirty-three (33) of the thirty-six  
16 (36) days in this period.

17 40. Starting April 26, 2010, through June 30, 2010, the bankroll submissions submitted  
18 by RESPONDENT to the BOARD’s Audit Division did not meet the minimum bankroll  
19 requirement, as set out in the bankroll formula, for thirty-nine (39) of the sixty-five (65) days in  
20 this period.

21 41. The failure to maintain a minimum bankroll in an amount sufficient to reasonably  
22 protect against defaults in gaming debts owed by the RESPONDENT is an unsuitable method  
23 of operation and a violation of Nevada Gaming Commission Reg. 6.150 and the bankroll  
24 formula. See Nev. Gaming Comm’n regulation 6.150(5). This constitutes an unsuitable  
25 method of operation, and, as such, is grounds for disciplinary action. See Nev. Gaming  
26 Comm’n Regs. 5.010(2), 5.011(8), 5.030 and 6.150(3).

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**COUNT TWO**

**VIOLATION OF NEVADA REVISED STATUTE 463.370**

42. Complainant BOARD realleges and incorporates by reference as though set forth in full herein paragraphs 1 through 41 above.

43. That based upon the requirements of NRS 463.370(2), RESPONDENT was required to pay fees using the base month of March 2010, on April 26, 2010 (April 24, 2010 fell on a Saturday). This would have been an estimated fee payment for the month of June, 2010 (which was the third month following March 2010 - the base month). These fees were not paid until on or about June 24, 2010, approximately two months after they were due pursuant to statute.

44. RESPONDENT's failure to pay its fees by the time required under statute is a violation of NRS 463.370. This constitutes an unsuitable method of operation, and, as such, is grounds for disciplinary action. See Nev. Gaming Comm'n Regs. 5.010(2), 5.011(8), and 5.030.

**COUNT THREE**

**VIOLATION OF NEVADA REVISED STATUTE 463.370**

45. Complainant BOARD realleges and incorporates by reference as though set forth in full herein paragraphs 1 through 44 above.

46. Based upon the requirements of NRS 463.370(2), RESPONDENT was required to pay fees using the base month of April 2010, on May 24, 2010. This would have been an estimated fee payment for the month of July 2010 (which was the third month following April 2010 - the base month). As of July 2, 2010, RESPONDENT has not paid these fees.

47. Based on RESPONDENT's failure to pay the fees when due on May 24, 2010, RESPONDENT also owes a penalty pursuant to NRS 463.270. As of July 2, 2010, RESPONDENT has not paid the penalty.

48. RESPONDENT's failure to pay its fees by the time required under statute is a violation of NRS 463.370. This constitutes an unsuitable method of operation, and, as such, . . . .

1 is grounds for disciplinary action. See Nev. Gaming Comm'n Regs. 5.010(2), 5.011(8), and  
2 5.030.

3 **COUNT FOUR**

4 **VIOLATION OF NEVADA REVISED STATUTE 463.370**

5 49. Complainant BOARD realleges and incorporates by reference as though set forth  
6 in full herein paragraphs 1 through 48 above.

7 50. Based upon the requirements of NRS 463.370(2), RESPONDENT was required to  
8 pay fees using the base month of May 2010, on June 24, 2010. This would have been an  
9 estimated fee payment for the month of August 2010 (which was the third month following  
10 April 2010 - the base month). As of July 2, 2010, RESPONDENT has not paid the e fees.

11 51. Based on RESPONDENT's failure to pay the fees when due on June 24, 2010,  
12 RESPONDENT also owes a penalty pursuant to NRS 463.270. As of July 2, 2010,  
13 RESPONDENT has not paid the penalty.

14 52. RESPONDENT's failure to pay its fees by the time required under statute is a  
15 violation of NRS 463.370. This constitutes an unsuitable method of operation, and, as such,  
16 is grounds for disciplinary action. See Nev. Gaming Comm'n Regs. 5.010(2), 5.011(8), and  
17 5.030.

18 **COUNT FIVE**

19 **VIOLATION OF NEVADA REVISED STATUTE 463.375**

20 53. Complainant BOARD realleges and incorporates by reference as though set forth  
21 in full herein paragraphs 1 through 52 above.

22 54. Based on the requirements of NRS 463.375, RESPONDENT was required to pay  
23 its quarterly fee for nonrestricted operation on June 30, 2010. As of July 2, 2010,  
24 RESPONDENT has not paid this fee.

25 55. Based on RESPONDENT's failure to pay the fees when due on June 30, 2010,  
26 RESPONDENT also owes a penalty pursuant to NRS 463.270. As of July 2, 2010,  
27 RESPONDENT has not paid the penalty.

28 . . . .