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SEP 21 2012

GAMBLING COMMISSION
COMM & LEGAL DIVISION

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension of the)
License to Conduct Gambling Activities of:)
)
Jacob C. Shepherd)
Oak Harbor, Washington,)
)
Licensee.)
_____)

No. CR 2012-00585

SETTLEMENT ORDER

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SEP 10 2012

GAMBLING COMMISSION
COMM & LEGAL DIVISION

I.

This Settlement Order is entered into between the Washington State Gambling Commission and Jacob C. Shepherd. The Gambling Commission is represented by Stephanie U. Happold, Assistant Attorney General, and Melinda Froud, Staff Attorney. The licensee is representing himself.

II.

The Washington State Gambling Commission issued Jacob C. Shepherd the following license:

Number 68-29920, authorizing Card Room Employee activity with Element Casino in Oak Harbor.

The license expires on April 1, 2013, and was issued subject to Jacob C. Shepherd's compliance with state gambling laws and rules.

III.

The Director issued a Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding to the licensee on June 8, 2012. On July 24, 2012, Commission staff received the licensee's request for a hearing.

IV.

The following summary of facts and violations were alleged in the Notice of Administrative Charges:

FACTS

1) On March 22, 2012, an agent was assigned Jacob C. Shepherd's file to determine whether he is still qualified for a license while being the subject of an active warrant for his arrest. Part of the agent's investigation is to review the licensing file.

Jacob C. Shepherd
SETTLEMENT ORDER
Page 1 of 5

CR.2012-00585

2) Mr. Shepherd's first license was issued in 2010 to work at Element, and he has maintained a license since. He does not have any previous administrative history.

3) The agent ran a background check on Mr. Shepherd and discovered he has a warrant for a Physical Control charge.

4) On March 22, 2012, the agent sent both Mr. Shepherd and Mike Kummerfeldt, from Element, letters. The letters notified both parties of the outstanding warrant, requested that Mr. Shepherd cancel the warrant within 30 days, and asked for verification that the warrant had been cancelled. The letters advised both parties that if Mr. Shepherd failed to quash the warrant by April 22, 2012, it may result in the revocation of his gambling license.

5) On April 30, 2012, the agent checked the status of Mr. Shepherd's warrant. She saw that it was still outstanding and he did not have an upcoming court date. The agent called Mr. Kummerfeldt and left him a message saying that since Mr. Shepherd has failed to quash his warrant, the recommendation would be revocation of his license. The agent attempted to contact Mr. Shepherd, but the phone number on file for him was no longer in service.

6) On May 2, 2012, Mr. Shepherd left a voice mail for the agent. He said Mr. Kummerfeldt had told him to call, and he left a new phone number. The agent called and left a message.

7) As of May 31, 2012, Mr. Shepherd had not called back, and his warrant is still active.

8) The following is a summary of the docket for Mr. Shepherd's pending charges:

- 12/06/2011: Case filed in Island County District Court for Physical Control. Mr. Shepherd failed to appear for the hearing. Probable Cause was found and a Failure to Appear was issued.
- 12/08/2011: A bench warrant was issued for Mr. Shepherd's failure to appear for a hearing, and bail was set at \$2,500.
- 12/28/2011: Mr. Shepherd called the court regarding the missed hearing date. He was advised of the \$75 bench warrant fee to quash the warrant.

As of May 31, 2012, there were no further entries on the docket.

9) The licensee's criminal history establishes that he poses a threat to the effective regulation of gaming. The licensee has also failed to establish by clear and convincing evidence the necessary qualifications for licensure under RCW 9.46.153(1).

10) Therefore, under RCW 9.46.075(1) and (8) and WAC 230-03-085(1), (3), (7) and (8), grounds exist to revoke Jacob C. Shepherd's license.

III

III

VIOLATIONS:

RCW 9.46.075 Denying, suspending, or revoking an application, license or permit

The commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein: (The following subsections apply.)

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;

(8) Fails to prove, by clear and convincing evidence, that she is qualified in accordance with the provisions of this chapter.

WAC 230-03-085 Denying, suspending, or revoking an application, license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(The following subsections apply.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level; or

(7) Fails to provide us with any information required under commission rules within the time required, or, if the rule establishes no time limit, within thirty days after receiving a written request from us; or

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by: (a) Prior activities; or (b) Criminal record; or (c) Reputation; or (d) Habits.

RCW 9.46.153(1) Applicants and licensees-Responsibilities and duties

It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

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V.

The licensee acknowledges that he has read the Notice of Administrative Charges, and understands the facts contained in it. On August 3, 2012, a Washington State Gambling Commission Special Agent confirmed Jacob C. Shepherd's warrant has been quashed. The licensee has waived his right to a hearing, based on the terms and conditions of this Settlement Order.

The licensee agrees to the following:

- 1) The licensee agrees that Jacob C. Shepherd's license is hereby **suspended for a period of ten (10) days** provided that:
 - a) **Three (3) days** of the suspension shall not be currently served, but shall be deferred for a period of one year from the date of entry of this Settlement Order, subject to the following: The licensee agrees not to violate any of Washington's gambling statutes or regulations during the one (1) year term.
 - b) The parties agree that the Director of the Washington State Gambling Commission, pursuant to this Settlement Order, has discretion to determine whether the licensee has violated any term of this Settlement Order. In the event the Director determines that a violation has occurred, he may suspend the license issued to the licensee, and any subsequently acquired licenses, for up to **three** days, by mailing or delivering a Notice of Order of Administrative Charges to the licensee. This suspension shall be in addition to any consequences of the new violation. The licensee shall be afforded the opportunity to have an Adjudicative Proceeding, which includes a hearing on the alleged violations.
 - c) The licensee shall **serve seven (7) days** of this suspension. **The suspension period will begin at 8:00 a.m. on Monday, September 17th, 2012, and end at 8:00 a.m. on Monday, September 24th, 2012.** During this period of suspension, the licensee shall take part in no gambling activities. The licensee may resume his gambling activities at 8:00 a.m. on September 24th, 2012.
 - d) Mr. Shepherd shall have no involvement directly or indirectly, whether paid or unpaid, in the operation, ownership, or financing of any business in Washington State which is applying for, or holds, a gambling license or permit or is involved with any gambling activity, including punchboard/pull-tab activity. However, this does not prevent Mr. Shepherd from working in any non-gambling activity, such as employment in restaurants located in establishments engaged in authorized gambling activity.
- 2) The licensee further agrees that he will comply with all court orders and that issuance of a warrant for his arrest will be a violation of this Settlement Order. If a warrant is issued, the Director will issue charges for the revocation of Mr. Shepherd's license. The licensee will be afforded the opportunity to have an Adjudicative Proceeding, which includes a hearing on the alleged violations.

3) The signed order must be received by Commission staff on or before Monday, September 10, 2012. The order must be mailed to Commission Headquarters at the following address:

Washington State Gambling Commission
Attention: Communications and Legal Division
P.O. Box 42400
Olympia, WA 98504-2400

or delivered (in person or via private courier) to the following address:

Washington State Gambling Commission
Attention: Communications and Legal Division
4565 7th Avenue SE; Fourth Floor
Lacey, WA 98503

DATED this 18th day of September, 2012.


Administrative Law Judge

By his signature, the licensee
Understands and accepts the terms
And conditions of this Order

APPROVED FOR ENTRY:

 24920 9-10-12
Jacob C. Shepherd (Date)
Licensee

APPROVED AS TO FORM:

 9/13/12
Stephanie U. Happold, WSBA# 38112
Assistant Attorney General
Representing the Washington State
Gambling Commission


Melinda Froud, WSBA #26792
Lead Staff Attorney
Washington State Gambling Commission

Jacob C. Shepherd
SETTLEMENT ORDER
Page 5 of 5

CR 2012-00585