

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Denial of the Application) NO. CR 2014-00986
for License to Conduct Gambling Activities of:)
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Bumpers Bowling, LLC d/b/a)
Bumpers Bowling & Family Fun Center) **NOTICE OF ADMINISTRATIVE**
Spokane Valley, Washington,) **CHARGES AND OPPORTUNITY**
) **FOR AN ADJUDICATIVE**
) **PROCEEDING**
)
Applicant.)

I.

Bumpers Bowling, LLC, d/b/a Bumpers Bowling & Family Fun Center, applied to the Washington State Gambling Commission for a class “C” license, number 53-21281, authorizing commercial amusement game activity. The class “C” license allows a person to conduct commercial amusement games at its premises and to place games at other licensed locations.

The application was made subject to the applicant’s compliance with state gambling laws and regulations.

II.

David Trujillo, Director of the Washington State Gambling Commission, charges the applicant with the following violations of the Washington State Gambling Act, 9.46 RCW, and WAC Title 230:

SUMMARY:

Bumpers Bowling, LLC, operated commercial amusement games between April 2013 and April 2014, without applying for a license. Administrative charges for the revocation of Bumpers, Inc., are pending for operating without a valid license.

FACTS:

(1) Lea Ann and Bradley Servatius own Bumpers, Inc., a licensee doing business as Bumpers. Bumpers has held a commercial amusement game license since August 2007. Lea Ann and Bradley Servatius each own a fifty percent share of Bumpers Bowling, LLC, the applicant in this case. There are no other owners or substantial interest holders of Bumpers Bowling, LLC.

(2) On April 7, 2014, the applicant, through its attorney, self-reported to a Commission Special Agent in the Financial Investigations Unit (FIU agent) that Bumpers had operated commercial amusement game activity under an unlicensed entity called Bumpers Bowling, LLC, formed last year, instead of under the current licensee, Bumpers, Inc. The attorney said the two entities are separate legal entities. The FIU agent advised the attorney the LLC needed to submit a new application for a commercial amusement game license.

(3) Bumpers Bowling, LLC, applied for a commercial amusement game license on or about April 23, 2014.

(4) The FIU agent reviewed the applicant's bank statements between March 5, 2013, and April 30, 2014. She verified the applicant had operated the business at the same location as Bumpers, Inc., without a commercial amusement game license.

(5) The FIU agent reviewed a letter from Lea Ann Servatius, dated May 7, 2014, stating:

- a) "...the LLC was formed 2/22/2013." The agent confirmed the formation of the LLC by reviewing the Certificate of Formation issued by the Secretary of State.
- b) "Please find bank statements from Bumpers Bowling LLC; we did not go live with the LLC until 4/1/13, so statements are from 3/13 to present."

(6) Bumpers, Inc., owns the amusement game equipment and intends to transfer the equipment to the applicant Bumpers Bowling, LLC, upon issuance of a new license.

(7) On May 27, 2014, the Commission Director issued administrative charges for the revocation of Bumpers, Inc.'s license, based on allegations the licensee, Bumpers, Inc.:

- a) Operated amusement games without a valid license for about ten days in 2013 and about 20 days in 2012.
- b) Failed to purchase identification stamps in 2012 and 2013.
- c) Failed to timely submit annual activity reports.
- d) Failed to report information required on its 2013 activity report.
- e) Failed to comply with operational and recordkeeping rules for amusement game operators.
- f) Bumpers, Inc. had its taxpayer's Certificate of Registration revoked by the Department of Revenue in September 2013 for unpaid taxes. The applicant, Bumpers Bowling, LLC, has a new Certificate of Registration issued to it in March 2013.

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VIOLATIONS

(1) RCW 9.46.075 Denial, suspension, or revocation of certification, application, 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 he, she or it is qualified in accordance with the provisions of this chapter.

(10) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain.

(2) 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, certified employee, or anyone holding a substantial interest in the applicant's or certified employee'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

(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.

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(3) RCW 9.46.160 Conducting activity without a license.

Any person who conducts any activity for which a license is required by this chapter, or by rule of the commission, without the required license issued by the commission shall be guilty of a class B felony. If any corporation conducts any activity for which a license is required by this chapter, or by rule of the commission, without the required license issued by the commission, it may be punished by forfeiture of its corporate charter, in addition to the other penalties set forth in this section.

(4) RCW 9.46.033 Amusement games authorized – Minimum rules.

The legislature hereby authorizes any person to conduct or operate amusement games when licensed and operated pursuant to the provisions of this chapter and rules and regulations adopted by the commission at such locations as the commission may authorize. The rules shall provide for at least the following:

(The following subsection applies.)

(1) Persons other than bona fide charitable or bona fide nonprofit organizations shall conduct amusement games only after obtaining a special amusement game license from the commission.

(5) RCW 9.46.153 Applicants and licensees — Responsibilities and duties — Waiver of liability — Investigation statement as privileged.

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.

Bumpers Bowling, LLC operated commercial amusement games without a valid license between April 2013 and April 2014. This conduct violated RCW 9.46.160.

By violating RCW 9.46.160, the applicant failed to prove by clear and convincing evidence, as required by RCW 9.46.153, that it is qualified to be licensed. By repeatedly operating without a valid license between April 2013 and April 2014, the applicant pursued economic gain in an occupational manner or context, violating criminal or civil policy, the pursuit of which creates probable cause to believe the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity.

The applicant's repeated operation without a valid license between April 2013 and April 2014 demonstrates willful disregard for complying with statutes and administrative rules. The applicant 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 the applicant's prior activities of repeatedly operating without a valid license between April 2013 and April 2014. Grounds, therefore, exist to deny the application for Bumpers Bowling LLC' license under RCW 9.46.075(1), (8), and (10), and WAC 230-03-085(1), (3) and (8).

