

RECEIVED

NOV 13 2009

STATE OF WASHINGTON  
GAMBLING COMMISSION  
GAMBLING COMMISSION  
COMM & LEGAL DEPT

RECEIVED

OCT 23 2009

GAMBLING COMMISSION  
COMM & LEGAL DIVISION

In the Matter of the Suspension or Revocation of )  
the License to Conduct Gambling Activities of: )

NO. CR 2009-01307

Bayou Bar & Grill )  
Spokane Valley, Washington, )

SETTLEMENT ORDER

Licensee. )  
\_\_\_\_\_ )

RECEIVED  
NOV 05 2009  
OAH - Olympia

This Settlement Order is entered into between the Washington State Gambling Commission and Bayou Bar & Grill. The Gambling Commission is represented by H. Bruce Marvin, Assistant Attorney General, and Brenda Bono, Staff Attorney. The licensee is represented by its owner, Dennis Bennett.

I.

The Washington State Gambling Commission issued Bayou Bar & Grill, organization number 00-18773, the following license:

05-19344, Authorizing Class "F" Punchboard Pull-Tab Activity.

The license expires on December 31, 2009, and was issued subject to the licensee's compliance with state gambling laws and regulations.

II.

In the above-entitled case, the Director issued a Notice of Administrative Charges on October 2, 2009, seeking the suspension or revocation of Bayou Bar & Grill's gambling license. The following is a summary of the facts alleged and the violations charged in the Notice of Administrative Charges: Rick Day, Director of the Washington State Gambling Commission, charges the licensee with the following violations of the Washington State Gambling Act, 9.46 RCW, and WAC Title 230:

The licensee failed to timely submit its Punchboard/Pull-Tab activity report for the first and second quarters of 2009. The activity report was due at the Commission's administrative office by July 30, 2009. However, the activity report was not received until September 18, 2009. This conduct violated WAC 230-14-284(2).

Previously, the licensee filed late reports for the first, second, third, and fourth quarters of 2007 and 2008. The licensee's failure to timely submit its activity reports demonstrates the licensee's willful disregard for complying with state administrative rules.

|||

|||

**The licensee has the following administrative history:**

On June 3, 2009 the licensee entered into a Settlement Order and agreed to a 15-day suspension to resolve administrative charges issued for failing to timely submit its Punchboard/Pull-Tab activity report for the third and fourth quarters of 2008. Three days of the suspension were deferred on the condition that the licensee has no other violations within a two-year period. (CR 2009-00303.)

In 2008, a Commission Special Agent issued a Notice of Violation and Settlement (NOVAS)<sup>1</sup> to the licensee for failing to timely submit its Punchboard/Pull-Tab activity report for the first and second quarters of 2008. (CR 2008-01362.)

Grounds exist for the suspension or revocation of the license to conduct gambling activities, based on RCW 9.46.075(1) and WAC 230-03-085(1) and (3).

The Licensee's actions are a violation of the June 3, 2009, Settlement Order and constitute grounds to impose the three-day deferred suspension pursuant to that Settlement Order.

**VIOLATIONS:****RCW 9.46.075 Denying, suspending, or revoking a license or permit states:**

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 subsection applies.)

(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.

**WAC 230-03-085 Denying, suspending, or revoking a license or permit states:**

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; or

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

---

<sup>1</sup> The NOVAS identifies the violation, and in this case, gives the recipient the opportunity to pay a fine and submit its delinquent report to settle the matter.

**WAC 230-14-284 Activity reports for punchboard and pull-tab licensees states:**

Punchboards and pull-tab licensees must submit an activity report to the Commission. Licensees must complete the report in the format we require and must:

(The following subsections apply.)

(1) Cover the periods:

- (a) January 1 through June 30; and
- (b) July 1 through December 31; and

(2) Be received at our administrative office or postmarked no later than thirty days following the end of the reporting period.

**III.**

Bayou Bar & Grill sent in a request for hearing on October 7, 2009. Bayou Bar & Grill has submitted their delinquent Activity Report, and has waived its right to a hearing; the parties agree to settle this matter under the following terms:

1) The licensee's gambling license is hereby suspended for a period of twenty (20) days, provided that:

a) **Three (3) days of the suspension shall not be currently served, but shall be deferred for a period of two years from the date of entry of this Settlement Order, subject to the following:**

- The licensee must not violate the terms of this Settlement Order, or Washington's gambling statutes and/or regulations during the two (2) year term, including failing to submit future activity reports when due.
- If the licensee violates the terms of this order, gambling statutes, or regulations, and if the violation is the type that warrants the filing of administrative or criminal charges, then the Director may impose the three (3) day suspension of the current gambling license and any subsequently acquired gambling license(s).

b) The parties agree that the Director of the Washington State Gambling Commission, pursuant to this settlement, has sole discretion to determine whether the licensee has violated any term of this settlement.

c) In the event the Director determines that a violation of this section or any other type of violation has occurred, he may suspend the license(s) issued to Bayou Bar & Grill, by mailing or delivering a Notice of Administrative Charges to the licensee. The suspension shall be in addition to the 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.

\\

\\

\\

d) Pursuant to RCW 9.46.077, the licensee has chosen to vacate the remaining seventeen (17) days of this suspension by paying a fine in the amount of one thousand, two hundred dollars (\$1,200). The licensee also agrees to reimburse the Commission for investigative and administrative costs of three hundred dollars (\$300), for total fines and costs of one thousand, five hundred dollars (\$1,500). Payments are due in two installments.

- The first installment of \$750 is due by November 23, 2009.
- The second installment of \$750 is due by December 28, 2009.

2) Additionally, the licensee will serve three (3) days of the previously deferred suspension from the Settlement Order dated June 2009.

- The suspension period will begin at 8:00 a.m. on Monday, November 16, 2009, and shall run through Wednesday, November 18, 2009.
- During this period of suspension, no gambling activities shall take place at the licensed premises.
- The licensee may resume its gambling activities at 8:00 a.m. on Thursday, November 19, 2009.

3) The payment(s) must be mailed to Commission Headquarters at the following address:

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

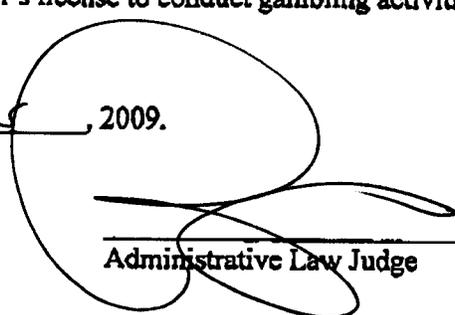
Or delivered (in person or via private courier) to the following address:

Washington State Gambling Commission  
Communications and Legal Division  
4565 7<sup>th</sup> Avenue SE;  
Third Floor Reception  
Lacey, Washington

4) The signed Settlement Order must be received by Commission staff on or before November 2, 2009.

5) The licensee agrees to submit its activity reports within 30 days following the end of the reporting period. Failure to do so may result in the filing of administrative charges for the suspension or revocation of Bayou Bar & Grill's license to conduct gambling activities.

DATED this 9<sup>th</sup> day of November, 2009.

  
\_\_\_\_\_  
Administrative Law Judge

**APPROVED FOR ENTRY:**

**ACCEPTED AS TO FORM:**

By the signature below, the licensee acknowledges reading the Settlement Order, and understands the terms and conditions.

*Dennis Bennett* 10/16/09  
Dennis Bennett, Owner  
Bayou Bar & Grill

*[Signature]*  
H. Bruce Marvin, WSBA# 25152  
Assistant Attorney General,  
Representing the Washington State  
Gambling Commission

*[Signature]*  
Brenda Bono, WSBA#29956  
Staff Attorney,  
Washington State Gambling Commission