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STATE OF WASHINGTON  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE WASHINGTON STATE GAMBLING COMMISSION

GAMBLING COMMISSION  
COMM & LEGAL DEPT

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

CASCADE BAR & GRILL

Licensee.

Docket No. 2009-GMB-0079  
GC No. CR 2009-01282

FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND INITIAL ORDER

**STATEMENT OF THE CASE**

Pursuant to notice duly given, an Administrative Hearing was held before Terry A. Schuh, duly appointed Administrative Law Judge, at the Gambling Commission Office, 4565 Seventh Ave. S.E., Lacey, Washington, on the 16<sup>th</sup> day of December 2009, in the Matter of the Suspension or Revocation of the License to Conduct Gambling Activities of Cascade Bar & Grill, 15000 E. Mill Plain Road, Vancouver, Washington, Licensee, Organization Number 00-19646, License Number 05-19793, Authorizing Class "B" Punchboard/Pull-Tab Activity, which expires on March 31, 2010.

The Washington State Gambling Commission (hereinafter, "the Commission") was represented by H. Bruce Marvin, Assistant Attorney General. Cascade Bar & Grill (hereinafter, "the Licensee") was represented by John Laughlin, manager.

On September 17, 2009, the Deputy Director of the Commission caused a Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding to be issued against the Licensee alleging that the Licensee had failed to pay the required fees of \$1132.00 for exceeding the annual gross gambling receipts limits for a Class "B" license for its license year ending March 31, 2009. The Licensee timely applied for an adjudicative proceeding. The Commission duly notified the Licensee of the time and the place of the Administrative Hearing. The Hearing was scheduled to begin at 1:00 p.m.

Shortly before 1:00 p.m., Mr. Marvin inform the Administrative Law Judge that Mr. Laughlin had called and asked for a continuance. Mr. Marvin first learned about the request at 12:30 p.m. The Administrative Law Judge called the hearing to order, with Mr. Laughlin appearing by telephone, first to address the continuance request. Mr. Laughlin requested the continuance because he was too sick to travel from Vancouver to Lacey. The Administrative

Law Judge determined that Mr. Laughlin was sufficiently well to appear by telephone and that, given that the case was not factually complicated, Mr. Laughlin could adequately represent the Licensee's interests by telephone. Accordingly, the request for a continuance was denied.

There were 7 exhibits admitted and testimony was offered by two witnesses: Special Agent Tyson L. Wilson, Washington State Gambling Commission; and John Laughlin, manager of the Licensee.

The Administrative Law Judge, having considered the evidence, now enters the following Findings of Fact pursuant to the preponderance of the evidence standard:

### **FINDINGS OF FACT**

1. The Licensee, Cascade Bar & Grill, holds a Class "B" Punchboard/Pull-Tab License, License Number 05-19793, issued by the Commission for the period beginning April 1, 2009, through March 31, 2010.

2. For the period of April 1, 2008, through March 31, 2009, the Licensee also held a Class "B" Punchboard/Pull-Tab License.

3. The holder of such a Class "B" license is authorized to conduct punchboard/pull-tab activities, limited to \$100,000.00 annual gross gambling receipts.

4. The Licensee's gross gambling receipts for the period beginning April 1, 2008, through March 31, 2009, were \$125,941.00.

5. \$125,941.00 exceeds the cap for Class "B" but is within the cap for Class "C". The fee for a Class "C" license for the same period of time was \$2006.00. The fee for the Class "B" license was \$1122.00. The fee for changing class was \$27.00. The fee for exceeding the cap was \$221.00. Therefore, the Commission determined that the Licensee owed \$1132.00 (calculated as \$2006.00 (Class "C" fee) minus \$1122.00 (credit for Class "B" fee) plus \$27.00 (change fee) plus \$221.00 (exceeding fee)).

6. The Commission sent the Licensee a letter dated May 7, 2009, advising the Licensee of this matter, complete with calculation. Exhibits 2 and 3. The letter advised the Licensee to pay the fees within 30 days of the date of the letter to avoid further administrative action. Exhibit 2.

7. When the Licensee failed to respond, the Commission sent another similar letter dated July 8, 2009, allowing 10 days to respond.

8. When the Licensee failed to respond, the matter was turned over to Special Agent Tyson L. Wilson on August 6, 2009.

9. Special Agent Tyson talked to Mr. Laughlin on August 6, 2009. Mr. Laughlin said that the Licensee would pay the fee and requested copies of the previous mailings.

10. On August 17, 2009, Mr. Laughlin advised Special Agent Tyson by e-mail that the Licensee could not make payment at that time but could do so by the end of the month.

11. On August 18, 2009, Special Agent Tyson told Mr. Laughlin that the case would be referred to the Commission's legal department.

12. As of December 16, 2009, the date of hearing, the Licensee had not paid the fees owing.

From the foregoing Findings of Fact, the Administrative Law Judge now enters the following Conclusions of Law:

#### **CONCLUSIONS OF LAW**

1. The undersigned Administrative Law Judge has jurisdiction to hear and initially decide this matter. RCW (Revised Code of Washington) 9.46.140(2) and (4), RCW 34.05.485(1)(c), RCW 34.12.030(1), WAC (Washington Administrative Code) 230-17-010, and WAC 230-17-025. The Commission has the broad purpose of protecting the public by insuring that, among other things, Licensee's authorized to operate punchboards and pull-tabs comply with the provisions of Chapter 9.46 RCW. RCW 9.46.010.

2. The Commission may suspend or revoke the License of a Licensee that violates or that fails to or refuses to comply with the provisions, requirements, conditions, limitations, and duties imposed by Chapter 9.46 RCW or rules promulgated by the Commission. RCW 9.46.075(1).

3. The Commission may suspend or revoke the License of a Licensee that commits conduct that constitutes grounds for suspension or revocation under RCW 9.46.075, that demonstrates willful disregard for complying with administrative rules, or that fails to provide information required by the Commission within 30 days of receiving such a request in writing. WAC 230-03-085(1), (3), and (7).

4. A Licensee must not exceed the gross gambling receipts limits for its license class. WAC 230-06-130(1).

5. A Licensee must project year-to-date receipts and, if apparently likely to exceed its limits, to apply for the relevant license class and submit the fee for that class less the fee previously submitted for the lesser class. WAC 230-06-130(2)(a) and (b).

6. Here, the Licensee did not project that it would exceed its class license limits and did not apply for the higher class. Moreover, it ultimately exceeded its class limits. Accordingly, the Commission properly demanded payment of the resulting fees totaling \$1132.00.

7. The Commission's demand was mailed to the Licensee on May 7, 2009. The Licensee was required to pay within 30 days. As of December 16, 2009, the Licensee still had not tendered payment.

8. Therefore, the Licensee has violated regulations promulgated by the Commission by not timely projecting and paying fees in anticipation of exceeding its limits and by not timely paying fees when Commission demanded it do so. Mr. Laughlin argued that the Licensee's failure was caused by lack of funds. The undersigned is not aware of any legal authority for that defense.

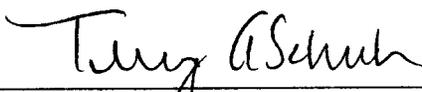
9. Thus, a preponderance of the evidence establishes that the Licensee violated provisions, requirements, conditions, limitations, or duties imposed by Chapter 9.46 RCW and that grounds exist under RCW 9.46.075(1) and WAC 230-03-085(1), (3), and (7) to revoke its Class "B" Punchboard/Pull-Tab License, License Number 05-19793, issued by the Commission for the period beginning April 1, 2009, through March 31, 2010.

From the foregoing Conclusions of Law, NOW THEREFORE

#### INITIAL ORDER

IT IS HEREBY ORDERED that, in the public interest, the License of Cascade Bar & Grill to conduct Class "B" Punchboard/Pull-Tab Activity, #05-19793, be and the same is hereby REVOKED.

Dated and Mailed this <sup>29<sup>th</sup></sup> ~~28<sup>th</sup>~~ day of January 2010 at Olympia, Washington.

  
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Terry A. Schuh  
Administrative Law Judge  
Office of Administrative Hearings  
PO Box 9046  
Olympia, WA 98507-9046

### **NOTICE TO THE PARTIES**

You may file an appeal of this order within twenty three days from the day OAH mails this initial order to you. WAC 230-17-090(2); see also WAC 230 -17 -030(2), WAC 230 -17 -035(2) [Service by first class mail is complete three days after mailing.]. An appeal from an initial order is known as a "petition for review". Your petition for review should (a) identify the parts of the initial order you disagree with and (b) refer to the evidence in the record that supports your position. If you decide to petition for review, you must serve copies of your petition on all parties or their representatives at the same time you file it with the Gambling Commission. If the Commission does not receive a petition for review within 23 days, the Commission will automatically make this order its final order.

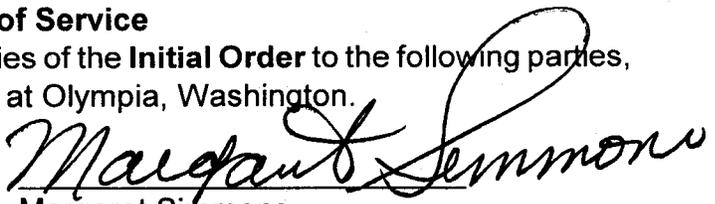
Any party may file a written response to a petition for review, known as a reply. If you wish to file a reply, it must be filed with the Commission within thirty days of the date you are served with the petition. You must serve copies of the reply on all parties or their representatives at the same time you file your reply.

Any party may file a cross appeal. Cross appeals must be filed with the commission within ten days of the date when the petition for review is filed with the Commission. WAC 230 -17 -090(5). If you wish to make a cross appeal, you must serve copies of the cross appeal upon all other parties or their representatives at the same time you file your cross appeal.

If a party timely files a petition for review, then at least a majority of the Commission members shall review the petition within 120 days and render a final order.

### **Certificate of Service**

I certify that I mailed true and exact copies of the **Initial Order** to the following parties, postage prepaid this 28<sup>th</sup> day of January 2010 at Olympia, Washington.

  
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