

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension or Revocation of)
the Licenses to Conduct Gambling Activities of:)
)
New Grove)
Everett, Washington,)
)
Licensee.)
_____)

NO. CR 2009-01631

**NOTICE OF ADMINISTRATIVE
CHARGES AND OPPORTUNITY
FOR AN ADJUDICATIVE
PROCEEDING**

I.

The Washington State Gambling Commission issued New Grove, Organization Number 00-19249, the following licenses:

Number 65-06975, Authorizing Class "F7" (premises only) Amusement Game Activity.
Number 05-19595, Authorizing Class "D" Card Room Activity.

The licenses expire on March 31, 2010, and were issued subject to the licensee's compliance with state gambling laws and regulations.

II.

David Trujillo, Deputy Director of the Washington State Gambling Commission, charges the licensee with the following violation(s) of the Washington State Gambling Act, 9.46 RCW, and WAC Title 230:

SUMMARY:

The licensee failed to provide documents to Commission staff relating to a monthly accounting reconciliation, as requested.

FACTS:

- 1) In January 2009, a Commission Special Agent (agent) observed, during a records review, that the New Grove's Player Supported Jackpot¹ (PSJ) reconciliations were not completed. The agent immediately made a verbal request for the records to the owner, James Nguyen.

¹ A Player Supported Jackpot is a fund players contribute to from each hand they play. The house (card room) collects the player funds, maintains them in a bank account, and the house is required to complete records which verify the total of the fund and to ensure security of the fund. The licensee has no legal interest in the fund. Cash amounts are paid out of the fund by the licensee to players as prizes when they achieve a predetermined hand in the poker game in which they are participating.

- 2) On February 3, 2009, the agent wrote a letter to Mr. Nguyen requesting the records from the period of December 2008 through January 2009, because he had not received them.
- 3) On June 1, 2009, the agent made a second written request, this time for the time period of December 2008 through June 2009.
- 4) On August 5, 2009, the agent made a third written request for the records.
- 5) On August 11, 2009, the agent issued a Notice of Violation and Settlement (NOVAS)² to the licensee for violation of WAC 230-15-400 (7), with a \$300 fine and direction to immediately complete the monthly reconciliations. The licensee was warned that failure to comply could result in Administrative Charges.
- 6) The licensee has failed to complete monthly PSJ reconciliations from December 2008 through June 2009.
- 7) The licensee has the following administrative history during the last five years:
 - Six operational violations (such as surveillance recordings, accepting checks with insufficient funds, etc.) resulting in warning letters or a NOVAS.
 - A 2007 Notice of Infraction for a record-keeping violation.
 - Administrative charges in 2006 for employing an unlicensed individual to perform card room employee and service supplier duties. The licensee agreed to a 20-day suspension, with 13 days deferred for one year and seven days vacated by a fine of \$12,446.
 - A 2009 NOVAS for conducting activity without a license.
 - Five verbal warnings for other operational or record-keeping violations.
 - The NOVAS in 2009 noted above.
 - Administrative charges for failure to provide documentation as requested relative to financial records and a substantial interest holder, and failure to pay gambling taxes. (The Administrative Law Judge's decision is pending.)

The licensee has violated RCW 9.46.170, WAC 230-06-070(3), WAC 230-15-190(1), and WAC 230-15-400(7). Therefore, under RCW 9.46.075(1) and WAC 230-03-085(1), (3) and (7), grounds exist to suspend or revoke New Grove's licenses.

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²A Notice of Violation and Settlement (NOVAS) identifies the violation and gives the recipient the opportunity to pay a fine to settle the matter.

RCW 9.46.075 Denying, suspending, or revoking an application, 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;

RCW 9.46.170 Refusal to Produce Records states:

Whoever, in any application for a license or in any book or record required to be maintained by the Commission or in any report required to be submitted to the Commission, shall make any false or misleading statement, or make any false or misleading entry or willfully fail to maintain or make any entry required to be maintained or made, or who willfully refuses to produce for inspection by the Commission, or its designee, any book, record, or document required to be maintained or made by federal or state law, shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021.

WAC 230-03-085 Denying, suspending, or revoking an application, 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.)

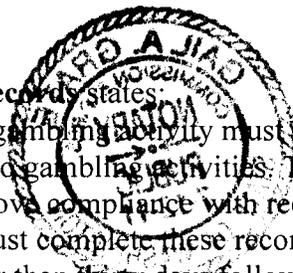
(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075; or

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

WAC 230-06-070(3) Keeping Monthly Records states:

Every organization licensed to operate any gambling activity must maintain permanent monthly records of all financial transactions related to gambling activities. The licensee must include all financial transactions in enough detail to prove compliance with record keeping requirements for the specific gambling activity. Licensees must complete these records and have them available for audit or inspection by our agents no later than thirty days following the end of the month!



WAC 230-15-190(1) Preparing Game Card Records states:
Card game licensees must prepare all records in the format we require.

WAC 230-15-400(7) Accounting for Player Supported Jackpot Funds states:
Class F licensees must reconcile the amount in the account balance in their bank statement to the PSJ fund accrual each month. "Reconcile" means the licensee must compare the two balances, resolve any differences, and document the comparison and the differences in writing. Licensees must keep the reconciliations as part of their records.

III.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

The licensee will have the opportunity to have a hearing on the alleged violations.

In order to have a hearing or discuss settlement options, the enclosed Request for Hearing must be completed and returned to the Gambling Commission **within 23 days** from the date of the mailing of this notice.

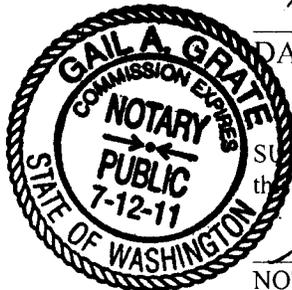
Based on RCW 34.05.440, failure to return this document will result in the entry of a default order REVOKING your licenses.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

David Trujillo, being duly sworn on oath, says: That he has read this Notice of Administrative Charges and Opportunity for An Adjudicative Proceeding for New Grove, knows the contents of it, believes it to be true, that he is the Deputy Director of the Washington State Gambling Commission, and in that capacity has executed said Notice.

David Trujillo

DAVID TRUJILLO, DEPUTY DIRECTOR



SUBSCRIBED AND SWORN TO before me
the 23 day of December, 2009.

Gail A. Grate

NOTARY PUBLIC in and for the State of
Washington residing at Olympia.
My commission expires on 7-12-11.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I hereby certify that I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy thereof, properly addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 23rd day of Dec, 2009
Gail A. Grate