

STATE OF WASHINGTON  
GAMBLING COMMISSION

In the Matter of the Suspension of the )  
Licenses to Conduct Gambling Activities of: ) NO. CR 2010-01406  
)  
Mt. Index Cafe ) **FINDINGS, CONCLUSIONS,**  
Index, Washington, ) **DECISION, AND FINAL**  
) **ORDER IN DEFAULT**  
Licensee. )

THE MATTER of the suspension of the licenses to conduct gambling activities of Mt. Index Cafe having come before the Commission on April 14, 2011, the State being represented by Jerry Ackerman, Senior Counsel, Office of the Attorney General, the Commission makes the following Findings of Fact, Conclusions of Law, and issues the following Decision and Order:

**FINDINGS OF FACT**

I.

The Washington State Gambling Commission issued Mt. Index Cafe, organization number 00-19172, the following licenses:

- Number 05-19566, authorizing Class "A" Punchboard Pull-Tab activity; and
- Number 65-07157, authorizing Class "D" Public Card Room activity.

The licenses expired on March 31, 2011, and were issued subject to the licensee's compliance with state gambling laws and regulations.

II.

On January 7, 2011, Director Rick Day issued administrative charges to Mt. Index Cafe, by certified and regular mail. The administrative charges notified the licensee that failure to respond would result in the entry of a default order suspending its licenses for thirty (30) days. Mt. Index Cafe did not respond to the charges.

By not responding, Mt. Index Cafe waives its right to a hearing on such charges and pursuant to RCW 34.05.440, this final order may be entered in default.

III.

1) In August 2009, Mt. Index Cafe received a written warning for failure to timely submit its punchboard/pull-tab activity report for the first and second quarters of 2009. The written warning notified the licensee that failure to submit an activity report may lead to the suspension or revocation of its gambling licenses.

2) Mt. Index Cafe failed to timely submit its punchboard/pull-tab activity report for the first and second quarters of 2010. The activity report was due at our administrative office by July 30, 2010. However, the activity report was not received until August 23, 2010, in violation of WAC 230-14-284(2).

3) On August 26, 2010, a Commission Special Agent (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 2010. However, the licensee failed to pay the NOVAS.

4) Mt. Index Cafe's failure to timely submit its activity report demonstrates the licensee's willful disregard for complying with state administrative rules. Therefore, grounds exist for the suspension of Mt. Index Cafe's licenses to conduct gambling activities, based on RCW 9.46.075(1) and WAC 230-03-085(1) and (7).

**RCW 9.46.075 Denying, suspending, or revoking a 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) 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**

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.

(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 230-14-284 Activity reports for punchboard and pull-tab licensees**

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.

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<sup>1</sup> A NOVAS identifies the violation, and in this case, gives the recipient the opportunity to pay a \$300 fine to settle the matter.

IV.

**CONCLUSIONS OF LAW**

The circumstances specified in the Findings of Facts in section III above constitute grounds for the suspension of Mt. Index Café's licenses to conduct gambling activities under the authority of RCW 9.46.075 and WAC 230-03-085.

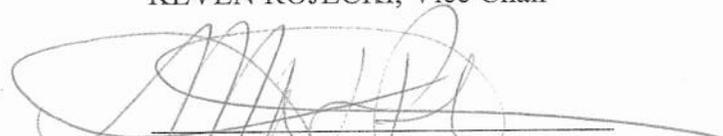
**DECISION AND ORDER**

The Washington State Gambling Commission HEREBY ORDERS: Mt. Index Café's licenses to conduct gambling activities are SUSPENDED FOR 30 DAYS.

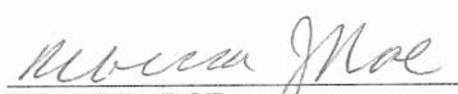
DATED this 14 day of April, 2011.

  
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JOHN ELLIS, Chair

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KEVEN ROJECKI, Vice Chair

  
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MICHAEL REICHERT

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MIKE AMOS

  
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REBECCA ROE

**NOTICE:** RCW 34.05.440(3) provides that within seven (7) days after service of a default order the party against whom it was entered may file a written motion requesting that the order be vacated and stating the grounds relied upon.

WAC 230-17-040(3) requires that motions be served on the parties listed below:

Washington State Gambling Commission  
Communications & Legal Division  
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