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

Blinker Tavern,  
Kent, Washington, )

Licensee. )

NO. CR 2011-01584

**SETTLEMENT ORDER**

This Settlement Order is entered into between the Washington State Gambling Commission and Blinker Tavern. Stephanie U. Happold, Assistant Attorney General, and Melinda Froud, Staff Attorney, represent the Commission. Jerome Koester, owner, represents the licensee.

**I.**

The Washington State Gambling Commission issued Blinker Tavern, organization number 00-06885, the following license:

- Number 05-02969, authorizing Class "D" Punchboard/Pull-Tab activity.

The license expires on September 30, 2012, and was issued subject to the licensee's compliance with state gambling laws and regulations.

**II.**

In the above-entitled case, the Gambling Commission issued a Notice of Administrative Charges and Opportunity for an Adjudicative Hearing on January 30, 2012, seeking the suspension or revocation of Blinker Tavern's license to conduct gambling activities. On February 27, 2012, Commission staff received the licensee's request for a hearing. On May 3, 2012, the Gambling Commission issued an Amended Notice of Administrative Charges.

The following is a summary of the facts and violations alleged in the Amended 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:

1) On October 18, 2011, a warning letter was sent to Blinker Tavern regarding their failure to pay delinquent Department of Revenue taxes in excess of \$40,000. The licensee avoided administrative charges by entering into a repayment program and has been compliant with the repayment agreement.

2) On December 2, 2011, Commission staff received an affidavit from the City of Kent

indicating that Blinker Tavern failed to make required gambling tax payments for the third and fourth quarters of 2009, the first, second, and third quarters of 2010, May 2011 and September 2011. The affidavit further states that the amount of gambling taxes owed for September 2011 cannot be accurately calculated because Blinker Tavern also failed to submit the required gambling tax return to the city.

3) The affidavit provided to Commission staff on December 2, 2011, documents the City's attempts to collect the past due gambling taxes due, as follows:

- On February 10, 2010, a collection notice was sent to Blinker Tavern by the City of Kent informing it that the gambling taxes from third and fourth quarters 2009 had not been received.
- On February 23, 2010, a notice was sent from Commission staff informing Blinker Tavern that staff was aware of the delinquent gambling taxes. The notice warns that failure to pay required gambling taxes may result in suspension or revocation of its gambling license.
- On April 5, 2010, a notice was sent from Commission staff informing Blinker Tavern that the Commission had again been contacted by the City of Kent regarding the delinquent gambling taxes. The notice warns that failure to pay required gambling taxes may result in suspension or revocation of its gambling license.
- On October 5, 2010, a collection notice was sent to Blinker Tavern by the City of Kent informing them that the gambling taxes from first and second quarters 2010 had not been received. The notice provided a 30-day deadline for the delinquent payment to be made.
- On December 8, 2010, a notice was sent to Blinker Tavern by the City of Kent. The notice stated: "Due to the ongoing delinquencies of your Gambling Taxes since 2009, with accumulated Gambling Tax debt of over \$12,547.27 (amount excludes 3<sup>rd</sup> and 4<sup>th</sup> quarters 2010), you are hereby required to report Gambling Taxes monthly, to the City of Kent, along with remittance, starting with January 2011 activity."
- On March 3, 2011, a collection notice was sent to Blinker Tavern by the City of Kent, informing them that the gambling taxes from third quarter 2010 had not been received. The notice provided a 30-day deadline for the delinquent payment to be made.
- On September 6, 2011, a notice was sent to Blinker Tavern by the City of Kent, informing them that gambling taxes were due from the third and fourth quarters 2009, the first, second, and third quarters 2010, and May, June 2011 and July 2011. This notice states, "If you fail to comply with the requirements set forth above, this office will file a petition with the Gambling Commission to revoke your license."

4) As of January 24, 2012, these delinquent taxes had not been paid, and the issue was turned over to a collection agency.

5) On March 27, 2012, the licensee's gambling taxes were paid in full to the City of Kent.

- 6) The licensee failed to timely submit its punchboard/pull-tab Activity Report for the third and fourth quarters of 2011.

The licensee has the following history submitting its Activity Reports:

Quarter	Due Date	Date Received	Days Late
3 <sup>rd</sup> & 4 <sup>th</sup> 2011	1/30/2012	4/16/2012	77
1 <sup>st</sup> & 2 <sup>nd</sup> 2011	7/30/2011	8/23/2011	24
3 <sup>rd</sup> & 4 <sup>th</sup> 2010	1/30/2011	2/2/2011	3
1 <sup>st</sup> & 2 <sup>nd</sup> 2010	7/30/2010	8/2/2011	3

- 7) The activity report for the 3<sup>rd</sup> and 4<sup>th</sup> quarters 2011 was due no later than January 30, 2012. On February 27, 2012, Cheryl Bogart, a CPA retained by Blinker Tavern, contacted Commission staff via e-mail. In her e-mail, Ms. Bogart stated that she had just received the gambling revenue and expense figures from Blinker and could now process the activity report as required. Commission staff provided a copy of a blank activity report to Ms. Bogart.

- 8) On April 16, 2012, Ms. Bogart submitted an unsigned copy of the activity report for 3<sup>rd</sup> and 4<sup>th</sup> quarters 2011.

- 9) On April 17, 2012, the signed copy of the activity report for 3<sup>rd</sup> and 4<sup>th</sup> quarters 2011 was received by Commission staff.

- 10) The licensee's failure to timely submit its Quarterly Activity Report, in violation of WAC 230-14-284 and failure to pay local gambling taxes to the City of Kent demonstrates its willful disregard for complying with local ordinances. Therefore, grounds exist to suspend or revoke Blinker Tavern's licenses under RCW 9.46.075 (1) and (8) and WAC 230-03-085(1), (3) and (4).

RCW 9.46.075 provides that 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:

(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;

**WAC 230-03-085 (1), (3), (4) and (7) Denying, suspending, or revoking an 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

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organization:

- (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.
- (4) Has failed to pay gambling taxes to local taxing authorities and the local taxing authority has petitioned us to take action.
- (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 punch board and pull-tab licensees.**

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

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

**III.**

The licensee acknowledges that it received the Amended Notice of Administrative Charges issued in this case, and understands the facts and violations contained in it.

On April 11, 2012, the City of Kent notified Commission staff that the licensee's gambling taxes were paid in full on March 27, 2012.

The licensee has waived its right to a hearing, based on the terms and conditions of this Settlement Order and agrees to the following terms and sanctions:

- 1) The licensee's gambling license is suspended for a period of **fifteen (15) days**, provided that:
  - a) **Ten (10) days** of the suspension shall not be currently served, but shall be deferred for one year, subject to the following: The licensee agrees not to violate the terms of this Settlement Order, or any of Washington's gambling statutes or regulations during the deferral period.
  - b) If the licensee violates this Settlement Order or 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 ten-day deferred suspension of the current gambling licenses and any subsequently acquired gambling licenses.
  - c) The parties agree that the Director of the Washington State Gambling Commission, pursuant to this agreement, has discretion to determine whether the licensee has violated any term of this agreement. In the event the Director determines that a violation of this

agreement has occurred, he may suspend the license(s) issued to the licensee for up to ten days, by mailing or delivering a Notice of Order of Administrative Charges to the licensee. In addition to the consequences of the new violation, the deferred sentence shall also be served. The licensee shall be afforded the opportunity to have an Adjudicative Proceeding, which includes a hearing on the alleged violations.

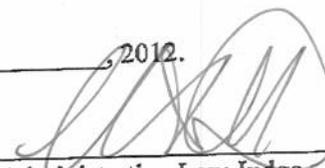
- a) The licensee has chosen to serve the remaining five (5) days of this suspension.
  - The suspension will be served on Monday, June 18, 2012, to Friday, June 22, 2012.
  - No gambling activities shall take place at the licensed premises starting at 8:00 a.m. on Monday, June 18, 2012.
  - The licensee may resume its gambling activities at 8:00 a.m. on Saturday, June 23, 2012.

2) The signed order must be received by Commission staff on or before Monday, May 21, 2012, and mailed to Commission Headquarters at the following address:

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

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

Washington State Gambling Commission  
Attention: Communications and Legal Division  
4565 7<sup>th</sup> Avenue SE; Third Floor  
Lacey, WA 98503

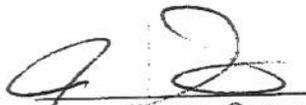
DATED this 21<sup>st</sup> day of May, 2012.  
*15T* *Jac*   
Administrative Law Judge

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APPROVED FOR ENTRY:

APPROVED AS TO FORM:

By signing this Settlement Order, the licensee acknowledges and understands the terms and conditions contained in it.



Jerome Koester, Owner  
Blinker Tavern

Date 5/21/12



Stephanie U. Happold, #38112  
Assistant Attorney General,  
Representing the Washington  
State Gambling Commission

5/23/12



Melinda A. Froud, WSBA #26792, Lead Staff Attorney  
Washington State Gambling Commission