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STATE OF WASHINGTON
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In the Matter of the Denial of the Application)	NO. CR 2011-01272
for a License to Conduct Gambling Activity of:)	
)	
Vesck Incorporated d/b/a)	SETTLEMENT ORDER
Jack's Pub & Grill,)	
Renton, Washington,)	
)	
Applicant.)	
_____)	

The Washington State Gambling Commission and the applicant, Vesck Incorporated doing business as Jack's Pub & Grill, agree to this Settlement Order to resolve administrative charges issued against the applicant. Stephanie U. Happold, Assistant Attorney General, and Melinda Froud, Lead Staff Attorney, represent the Gambling Commission. Sylvia Sullivan, owner, represents Vesck Incorporated d/b/a, Jack's Pub & Grill.

I.

Vesck Incorporated d/b/a, Jack's Pub & Grill, 3901 NE 4th St., Renton, organization number 00-22513, applied for the following license: Number 05-21052, authorizing Class "C" Punchboard/Pull-Tab activity.

The application was made subject to the Vesck Incorporated d/b/a, Jack's Pub & Grill's, compliance with state gambling laws and Commission rules.

II.

The Director issued a Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding to the applicant, Vesck Incorporated d/b/a, Jack's Pub & Grill, on November 7, 2011. On November 28, 2011, Commission staff received the applicant's request for a hearing. The Notice of Administrative Charges alleged the following facts and violations:

III.

SUMMARY:

Kevin J. Austin is the Vice President and 33% owner of Vesck Incorporated, doing business as Jack's Pub & Grill (Jack's). Jack's has applied for a Punch Board/Pull-tab¹ license to operate a

¹ Pull tabs are games of chance where a player pays the advertised price posted on a game information sheet (flare) and receives a ticket (tab) which offers a chance to win cash or merchandise. The price of the tabs ranges from twenty five cents per ticket to one dollar per ticket.

gambling activity at their establishment. Mr. Austin's criminal history includes 1997 convictions for 1st degree burglary, 1st degree robbery, and attempted 1st degree robbery. In two of these cases, weapons were used to threaten physical harm to individuals. Although Mr. Austin was a juvenile at the time the crimes took place, he was convicted as an adult. Based on Mr. Austin's criminal history, he does not prove through clear and convincing evidence that he qualifies to hold a gambling license. As the Vice President and 33% owner of the applicant business, Mr. Austin's failure to qualify results in a failure to qualify for the applicant organization.

VIOLATIONS/GROUNDS FOR DENIAL:

RCW 9.46.075 Denying, suspending, or revoking an application, 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 the licensee, or any person with any interest therein:

(The following subsections apply.)

(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.

(2) Knowingly causes, aids, abets, or conspires with another to cause, any person to violate any of the laws of this state or the rules of the commission;

(4) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude.

(8) Fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter.

(10) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain.

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

(2) Has been convicted of, or forfeited bond on a charge of, or pleaded guilty to a misdemeanor or felony crime involving physical harm to individuals. "Physical harm to individuals" includes any form of criminal assault, any crime involving a threat of physical harm against another person, or any crime involving an intention to inflict physical harm on another person; or

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by: (a) Prior activities; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e) Associations.

RCW 9.46.153(1) Applicants and Licensees-Responsibilities and duties

It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

Based on Mr. Austin's criminal history, the applicant has failed to prove by clear and convincing evidence that it qualifies to hold a gambling license, in violation of RCW 9.46.153. Therefore, under RCW 9.46.075(1), (2), (4), (8), and (10), and WAC 230-03-085(1), (3), and (8), grounds exist to deny Vesck Incorporated d/b/a Jack's Pub & Grill's application for a gaming license.

IV.

The Commission alleges that the facts and violations specified in paragraph III above constitute grounds for the denial of Vesck Incorporated d/b/a Jack's Pub & Grill's application for a license to conduct authorized gambling activities under the authority of RCW 9.46.075 and WAC 230-03-085.

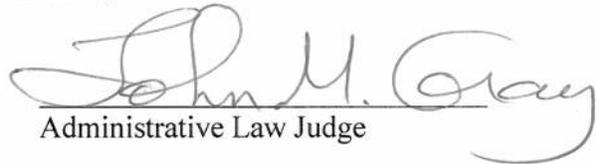
V.

1) The applicant, through its owner, Sylvia Sullivan, acknowledges that it received the Notice of Administrative Charges issued in this case, and understands the facts and violations contained therein.

2) On November 28, 2011, the applicant, Vesck Incorporated d/b/a, Jack's Pub & Grill, requested a hearing in this matter; however, the applicant has waived its right to a hearing based on the terms and conditions of this Settlement Order.

- 3) The applicant agrees to the following terms and conditions:
- a) Vesck Incorporated d/b/a, Jack's Pub & Grill, has modified its ownership structure, and Mr. Austin is no longer an owner, operator, financier, or substantial interest holder in the corporation.
 - b) The applicant understands that it shall be required to establish, by clear and convincing evidence, that it is qualified to hold a gambling license. Evidence of qualification to hold a gambling license includes, but is not limited to, satisfactory compliance with gambling laws and rules.
- 4) Vesck Incorporated d/b/a, Jack's Pub & Grill, will be subject to all the Commission's investigative procedures for processing an application for a gambling license. Nothing contained in this Order prevents Commission staff from denying the applicant's licensure, based on the facts of this case in combination with facts that may not currently be known by Commission staff.

DATED this 15th day of March, 2012.


Administrative Law Judge

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APPROVED FOR ENTRY:



Sylvia Sullivan
Owner, Jack's Pub & Grill

APPROVED AS TO FORM:



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



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