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GAMBLING COMMISSION
COMM & LEGAL DIVISION

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Denial of the Application for)
a License to Conduct Gambling Activities of:)
James Gang Tavern,)
Union Gap, Washington,)
Applicant.)
_____)

NO. CR 2011-00543

SETTLEMENT IN LIEU OF
ADMINISTRATIVE CHARGES

This Settlement in Lieu of Charges is entered into between the Washington State Gambling Commission and James Gang Tavern. The Gambling Commission is represented by Bruce Marvin, Assistant Attorney General, and Melinda Froud, Lead Staff Attorney. The applicant is represented by Patrick Jeffries, President.

I.

James Gang Tavern, Organization Number 00-15391, has applied for the following licenses: Number 05-06910, authorizing Class "A" Punchboard/Pull-Tab activity and Number 65-01966, authorizing Class "D" Public Card Room activity.

The application was subject to compliance with state gambling laws and regulations when it submitted its application.

II.

There are sufficient grounds for the Gambling Commission to deny James Gang Tavern's application based on the following:

The applicant, James Gang Tavern, conducted pull-tab activity after its license expired on December 31, 2010, and failed to submit its Punch Board/Pull-Tab Activity Report for the third and fourth quarters of 2010.

III.

FACTS:

1) During an on-site visit in February 2011, a Commission Special Agent (agent) discovered that James Gang Tavern was conducting punchboard/pull-tab activity. However, James Gang Tavern had failed to timely submit a completed renewal application and all applicable fees prior

to the expiration date, in violation of WAC 230-06-125. As a result, James Gang Tavern's Punchboard/Pull-Tab license expired on December 31, 2010.

- 2) Despite not having a valid license, James Gang Tavern continued to conduct gambling activities from January 1, 2011, through February 14, 2011, in violation of RCW 9.46.160.
- 3) On or about February 22, 2011, James Gang Tavern applied for a new Class "A" Punch Board/Pull-Tab license and a new Class "D" Public Card Room license.
- 4) Additionally, James Gang Tavern failed to timely submit its Punch Board/Pull-Tab Activity Report for the third and fourth quarters of 2010, in violation of WAC 230-14-284. The report was due by January 30, 2011; however, it was not received until May 9, 2011.
- 5) Previously, in August 2009, the applicant received a Notice of Violation and Settlement (NOVAS)¹ for failing to timely submit its Punch Board/Pull-Tab Activity Report for the first and second quarters of 2009. Also in October 2010, the applicant received a Notice of Infraction for failing to timely submit its Punch Board/Pull-Tab Activity Report for the first and second quarters of 2010.

GROUND FOR DENIAL/VIOLATIONS:

RCW 9.46.075 Denial, suspension, or revocation of license, 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 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.

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 subsection applies.)

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

¹ A NOVAS identifies the violation, and in this case, gives the recipient the opportunity to pay a fine and submit its delinquent report to settle the matter.

RCW 9.46.160 Conducting activity without license.

Any person who conducts any activity for which a license is required by this chapter, or by rule of the commission, without the required license issued by the commission shall be guilty of a class B felony. If any corporation conducts any activity for which a license is required by this chapter, or by rule of the commission, without the required license issued by the commission, it may be punished by forfeiture of its corporate charter, in addition to the other penalties set forth in this section.

WAC 230-06-125 Renew your license in a timely manner.

(1) Licensees must ensure a properly completed renewal application and all applicable fees are received at our administrative office in Lacey at least fifteen days before the expiration date on their license.

(2) If licensees do not submit a properly completed application and all fees and their license expires, they must immediately stop the gambling activity covered by their license.

(3) If your license expires, you must submit an application and you must not operate any gambling activity until a new license is issued.

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:

(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; and

(3) Be signed by the licensee's highest ranking executive officer or a designee. If someone other than the punch board and pull-tab licensee or its employee prepares the report, then it must provide the preparer's name and business telephone number; and

(4) Be filed even if they do not renew their license. They must file a report for the period between the previous report filed and the expiration date of the license.

IV.

The applicant, James Gang Tavern, acknowledges that it violated Commission rules, and has indicated its willingness to comply with gambling rules and regulations. In lieu of formal proceedings, the parties agree to settle this matter under the following terms:

1) The applicant acknowledges that its application for Punchboard/Pull-Tab and Public Card Room activity is pending final approval by the Commission.

2) The applicant agrees to **pay back license fees** for operating gambling activities from January 1, 2011, through February 14, 2011, in the amount of **\$90 (ninety dollars)**.

3) The parties agree that after obtaining licensure, James Gang Tavern's licenses are suspended for a period of **fifteen (15) days**, provided that:

- a) **Five (5) days** of the suspension shall not be currently served, but shall be deferred for a period of one (1) year from the date of entry of this Settlement, subject to the following: James Gang must not violate Washington's gambling statutes or rules during the one (1) year term. If the applicant violates such statutes or rules, and if the violation is the type that warrants the filing of administrative charges, then the Director may impose up to five (5) days of the deferred suspension on any subsequently acquired gambling licenses.
- b) The parties agree that the Director of the Washington State Gambling Commission, pursuant to this Settlement, has sole discretion to determine whether the licensee has violated any term of this Settlement. In the event the Director determines a violation has occurred, he may suspend the licenses issued to James Gang Tavern by mailing or delivering a Notice of Order of Administrative Charges to the licensee. In addition to the consequences of the new violation, the licensee shall serve all, or part of the deferred sentence. The licensee shall have the opportunity to request an adjudicative proceeding, which includes a hearing on the alleged violations.
- c) The licensee has chosen to serve the remaining **ten (10) days** of the suspension.
- **The suspension period begins at 8:00 a.m. on Monday, June 13, 2011, and runs through Wednesday, June 22, 2011.**
 - The licensee may resume gambling activities at 8:00 a.m. on Thursday, June 23, 2011.
 - During this period of suspension, no gambling activities shall take place at the licensed premises.

2) **Commission staff must receive the settlement and back license fee of \$90 by May 23, 2011.** The applicant shall **mail** them to Commission Headquarters at the following address:

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

or **deliver** (in person or via private courier) them to Commission Headquarters at the following address:

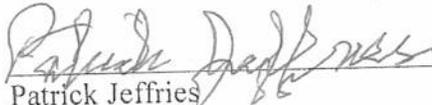
Washington State Gambling Commission
Attn: Communications and Legal Division
4656 7th Avenue SE
Lacey, WA 98503

3) James Gang Tavern's application will be forwarded to the Commission for approval upon signature of this Settlement in Lieu of Charges by the Director.



DATED this 12 day of May, 2011.

AGREED TO BY:


Patrick Jeffries (Date)
President, James Gang Tavern


Rick Day, Director
Washington State Gambling Commission


Melinda Froud, Lead Staff Attorney
Washington State Gambling Commission