STATE OF WASHINGTON
GAMBLING COMMISSION

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| In the Matter of the Suspension or Revocation of the License to Operate Gambling Activities of: | ) | NO. CR 2011-01400 |
| Mick Finsters Pub & Grill<br>Edmonds, Washington, | ) | ***AMENDED***<br>**ADMINISTRATIVE CHARGES AND OPPORTUNITY FOR AN ADJUDICATIVE PROCEEDING** |
| Licensee. | ) | *(Amendments appear in italics and strikeouts)* |

I.

The Washington State Gambling Commission issued Mick Finsters Pub & Grill, organization number 00-12473, license number 05-06742, 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.

~~David Trujillo~~ *Rick Day*, ~~Deputy~~ *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) Mick Finsters Pub & Grill ~~has not submitted~~ *did not timely submit* their quarterly activity report for the first and second quarters of 2011, which was due on July 30, 2011.

2) On November 9, 2011, a Special Agent (agent) went to the licensee's address to speak with the owner about the late activity report, which is the licensee's fifth late report in a row.

- The agent approached a man behind the bar, later identified as the owner, Scott Nord. Mr. Nord told the agent that the bartender would assist her.
- The agent asked the bartender if Mr. Nord was available. The bartender said Mr. Nord was the gentlemen the agent had spoken with briefly a few moments before. (Mr. Nord was still in sight behind the bar.)
- The agent explained why she was at the location and asked the bartender if she could speak with Mr. Nord directly. The bartender approached Mr. Nord, who disappeared around the corner with the bartender. The bartender came back and asked the agent, "What are we missing? I think I did that stuff a long time ago." The bartender then asked for the blank quarterly activity report, which the agent handed to her.

- The agent then asked the bartender if she could speak with Mr. Nord, as she needed to know whether he wanted to accept the $500 Notice of Violation and Settlement (NOVAS)[1] or move forward with a statement of charges for a repeat violation. The bartender disappeared out of sight of the agent. When the bartender came back, she said, "He left, he's busy. He said he will fight the ticket."

- The agent told the bartender that the NOVAS was not due on the spot, and that Mr. Nord had 15 days to pay the fine. The bartender smirked and told the agent to have a good day as she walked away.

2) Previously, on August 19, 2010, Mick Finsters accepted a $300 NOVAS for late reporting of their quarterly activity report for the first and second quarters of 2010. This report was due by July 30, 2010. However, the licensee did not submit the activity report to Commission staff until August 20, 2010, in violation of WAC 230-14-284(1) and (2).

*3)* ~~As of December 22, 2011, the licensee had not submitted its punchboard/pull-tab activity report for the first and second quarters of 2011.~~ *On January 13, 2012, the licensee submitted its punchboard/pull-tab activity report for the first and second quarters of 2011, 167 days late.*

*4) As of February 9, 2012, the licensee had not submitted its punchboard/pull-tab activity report for the third and fourth quarters of 2011, which was due January 30, 2012.*

*5) The licensee has the following reporting history for its quarterly activity reports:*

| Report Period | Due Date | Received Date | **Days late** |
|---|---|---|---|
| 2009-1&2 | 7/30/2009 | 8/5/2009 | **6** |
| 2009-3&4 | 1/30/2010 | 2/2/2010 | **3** |
| 2010-1&2 | 7/30/2010 | 8/20/2010 | **21** |
| 2010-3&4 | 1/3/2011 | 1/31/2011 | **1** |
| *2011-1&2* | *7/30/2011* | ~~**Not Yet Received**~~ *1/13/2012* | ***167*** |
| ***2011-3&4*** | ***1/30/2012*** | ***Not Yet Received*** | |

6) Mick Finsters Pub & Grill's repeated failure to submit its activity reports demonstrates its willful disregard for complying with state administrative rules. Therefore, grounds exist for the suspension of Mick Finsters Pub & Grill's license to conduct gambling activities, based on RCW 9.46.075(1) and WAC 230-03-085(1), (3), and (7).

[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 9.46.075(1) 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 subsection applies.)

(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.

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

(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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III.

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

STATE OF WASHINGTON )
) ss.
COUNTY OF THURSTON )

~~David Trujillo~~ *Rick Day*, being duly sworn on oath, says: That he has read this Notice of Administrative Charges and Opportunity for An Adjudicative Proceeding, 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.

Rick Day

RICK DAY, DIRECTOR

SUBSCRIBED AND SWORN TO before me this 9 day of February, 2012.

Michelle F Rancourt

NOTARY PUBLIC in and for the State of Washington residing at Thurston County

My commission expires on 10-19-15

MICHELLE F. RANCOURT
NOTARY PUBLIC
COMMISSION EXPIRES 10-19-15
STATE OF WASHINGTON

**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 9 day of February 2012**

Maureen Prelell

**Communications and Legal Department**
**Washington State Gambling Commission**