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MAY 22 2012

GAMBLING COMMISSION
COMM & LEGAL DEPT

STATE OF WASHINGTON
GAMBLING COMMISSION

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GAMBLING COMMISSION
COMM & LEGAL DIVISION

In the Matter of the Suspension or Revocation of) NO. CR 2012-00155
the Licenses to Conduct Gambling Activities of:)

) **SETTLEMENT ORDER**

Lakes Moose Lodge (LOOM) # 01865)
Lakewood, Washington,)

Licensee.)
_____)

This Settlement Order is entered into between the Washington State Gambling Commission and Lakes Moose Lodge (LOOM) # 01865. The Gambling Commission is represented by Stephanie U. Happold, Assistant Attorney General, and Melinda Froud, Staff Attorney. Ronald Davis, represents the licensee.

I.

The Washington State Gambling Commission issued LOOM 1865, organization number 00-00454, located in Lakewood, the following licenses:

- License number 03-00969, authorizing Class "A" Amusement Game activity;
- License number 60-00406, authorizing Class "D" Card room activity;
- License number 01-00863, authorizing Class "C" Bingo activity;
- License number 02-08772, authorizing Class "A" Raffle activity; and
- License number 05-01705, authorizing Class "B" Punchboard/Pull-Tab activity.

The Commission issued these licenses, which expire on December 31, 2012, subject to the licensee'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 licensee on March 7, 2012. On March 22, 2012, Commission staff received the licensee's Request for Hearing.

III.

Rick Day, Director of the Washington State Gambling Commission, charges the licensee with the following violations of Chapter 9.46 RCW, and WAC Title 230.

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SUMMARY:

The licensee's President, Richard Cencil, does not qualify to be a substantial interest holder for the organization due to his criminal history, which includes assault, harassment, bail jumping, and a controlled substance felony, as well as his repeated violations of court orders. Mr. Cencil also has more than \$4,800 in fines and fees in collections as a result of his failure to timely pay court-ordered obligations.

FACTS:

Richard Cencil is currently the President of LOOM 1865. His term as President ends April 30, 2012. Because Mr. Cencil is a substantial interest holder with management and control over a licensed entity, he must qualify for licensure.¹

During a criminal history check of the licensee and its substantial interest holders, a Gambling Commission Special Agent (agent) found the following information regarding Mr. Cencil's criminal history:

- A 2005 conviction of Assault in the Fourth Degree with Bodily Injury, and Harassment-Domestic Violence;
- A 2004 conviction of Gross Misdemeanor Obstruction: False Charges/Statement;
- A 2003 felony conviction of Unlawful Possession of a Controlled Substance: Methamphetamine and Bail Jumping; and
- A 2003 conviction of Gross Misdemeanor Assault in the Fourth Degree-Domestic Violence.

During the pendency of these criminal cases, four arrest warrants were issued for Mr. Cencil's failure to appear in court as directed, one of which resulted in a conviction for Bail Jumping.

¹ **WAC 230-03-045- Defining substantial interest holder.**

(1) "Substantial interest holder" means a person who has actual or potential influence over the management or operation of any organization, association, or other business entity.

(2) Evidence of substantial interest may include, but is not limited to:

- (a) Directly or indirectly owning, operating, managing, or controlling an entity or any part of an entity; or
- (b) Directly or indirectly profiting from an entity or assuming liability for debts or expenditures of the entity; or
- (c) Being an officer or director or managing member of an entity; or
- (d) Owning ten percent or more of any class of stock in a privately or closely held corporation; or
- (e) Owning five percent or more of any class of stock in a publicly traded corporation; or
- (f) Owning ten percent or more of the membership shares/units in a privately or closely held limited liability company; or
- (g) Owning five percent or more of the membership shares/units in a publicly traded limited liability company;

or

- (h) Providing ten percent or more of cash, goods, or services for the start up of operations or the continuing operation of the business during any calendar year or fiscal year. To calculate ten percent of cash, goods, or services, take the operational expenses of the business over the past calendar or fiscal year, less depreciation and amortization expenses, and multiply that number by ten percent; or
- (i) Receiving, directly or indirectly, a salary, commission, royalties, or other form of compensation based on the gambling receipts.

Additionally, Mr. Cancel failed to comply with the terms of his court orders, including failure to serve on work crews, failure to keep probation appointments, and failure to complete ordered treatment. Mr. Cancel has over \$4,800 in fines and fees in collections as a consequence of his failure to timely pay his court-ordered obligations.

The agent sent a letter to the licensee summarizing her findings, and informing it that Mr. Cancel does not qualify as a substantial interest holder based on his criminal history. The letter stated that Mr. Cancel should voluntarily step down from his position, or the licensee would be subject to Administrative Charges.

Charles Kidd, LOOM 01865 Administrator, contacted the agent, and informed her that the licensee was supporting Mr. Cancel. Mr. Kidd reiterated LOOM members' support for Mr. Cancel in a letter received by Commission staff on January 23, 2012. The letter states that lodge members were aware of Mr. Cancel's criminal history, and they knew he had taken "very positive steps to turn his life around."

Lodge President Richard Cancel's convictions for Assault-DV, Harassment-DV, Gross Misdemeanor Obstruction, Unlawful Possession of a Controlled Substance, and Bail Jumping establish that the licensee poses a threat to the effective regulation of gaming. Mr. Cancel has repeatedly failed to comply with court orders, as evidenced by having more than \$4,800 of fines and fees in collections. The licensee has also failed to establish, under RCW 9.46.153(1), that it is qualified to be licensed. Therefore, under RCW 9.46.075(1), (4) and (8), and WAC 230-03-085(1), (2), (3) and (8), grounds exist to suspend or revoke LOOM 1865's gambling licenses.

VIOLATIONS:

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 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.

(4) provides the Commission may revoke any license where the licensee 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.

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.

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

(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

(The following subsection applies.)

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.

Richard Cancil is the President of LOOM 1865 and is a substantial interest holder in the organization. As a result, his convictions for Assault-DV, Harassment-DV, Gross Misdemeanor Obstruction, Unlawful Possession of a Controlled Substance, and Bail Jumping establish that the licensee poses a threat to the effective regulation of gaming. Mr. Cancil has also repeatedly failed to comply with court orders, as evidenced by his having more than \$4,800 of fines and fees in collections. As a result, the licensee has failed to establish, under RCW 9.46.153(1), that it is qualified to be licensed. Therefore, under RCW 9.46.075(1), (4) and (8) and WAC 230-03-085(1), (2), (3) and (8), grounds exist to suspend or revoke LOOM 1865's gambling licenses.

IV.

On March 22, 2012, the licensee provided a copy of the resignation letter from Richard Cancil to the Board of Officers and Members of Lakes Moose Lodge #01865.

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

1) The licensee agrees that LOOM #01865's licenses are hereby suspended for a period of ten (10) days, provided that:

a) **Three (3) days of the suspension shall not be currently served, but shall be deferred for a period of one year** from the date of entry of this Settlement Order, subject to the following: The licensee agrees not to violate any of Washington's gambling statutes or regulations during the one (1) year term. If the licensee violates these 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 three-day suspension of the current gambling license(s) and any subsequently acquired gambling licenses.

b) 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 section has occurred, he may suspend the license(s) issued to the licensee, and any subsequently acquired licenses, for up to three days, by mailing or delivering a Notice of Order of Administrative Charges to the licensee. This suspension shall be in addition to any consequences of the new violation. The licensee shall be afforded the opportunity to have an Adjudicative Proceeding, which includes a hearing on the alleged violations.

2) **The licensee has chosen to serve the remaining seven (7) days of the suspension.**

- i. **The suspension period begins at 8:00 a.m. on Monday, June 4, 2012, and runs through Sunday, June 10, 2012.**
- ii. During this period of suspension, no gambling activities shall take place at the licensed premises.
- iii. The licensee may resume its gambling activities at 8:00 a.m. on Monday, June 11, 2012.

3) **The signed Settlement Order must be received by Commission staff on or before May 16, 2012, and mailed to Commission Headquarters at the following address:**

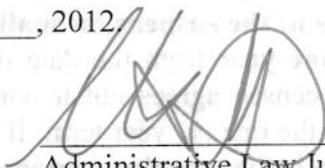
Washington State Gambling Commission
Attention: Communications and Legal Division
P.O. Box 42400
Olympia, WA 98504-2400

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

Washington State Gambling Commission
Attention: Communications and Legal Division
4565 7th Avenue SE; Fourth Floor
Lacey, WA 98503

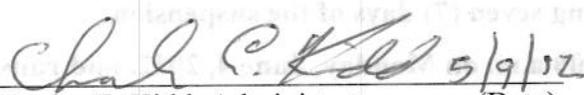
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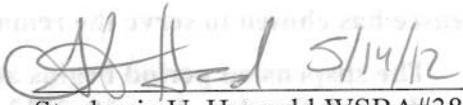
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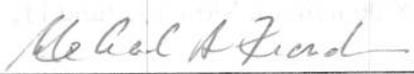
DATED this 18th day of May, 2012, 
Administrative Law Judge

APPROVED FOR ENTRY:
By the signature below, the licensee understands the terms and conditions contained in the settlement order.

APPROVED AS TO FORM:


Charles E. Kidd, Administrator (Date)
Lakes Moose Lodge (LOOM) # 01865


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


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