

STATE OF WASHINGTON  
GAMBLING COMMISSION

In the Matter of the Suspension or Revocation of )  
the License to Conduct Gambling Activities of: )  
 )  
Melony's Village Corp. )  
d/b/a Old Village Pub )  
Lynnwood, Washington, )  
 )  
Licensee. )  
\_\_\_\_\_ )

NO. CR 2013-00478

**SECOND AMENDED**  
**NOTICE OF ADMINISTRATIVE**  
**CHARGES AND OPPORTUNITY**  
**FOR AN ADJUDICATIVE**  
**PROCEEDING**  
*(Second Amendments appear in italics)*

I.

The Washington State Gambling Commission issued Melony's Village Corp. d/b/a Old Village Pub, license 05-20794, authorizing Class "D" Punch Board/Pull-Tab activity. The Commission issued this license, which expired on December 31, 2013, subject to the licensee's compliance with state gambling laws and Commission rules.

II.

**SUMMARY:**

Melony's Village Corp. d/b/a Old Village Pub (hereinafter Old Village Pub) failed to timely submit required activity reports for several quarters, as well as its new or renewed lease agreement. The Old Village Pub also failed to provide requested information regarding the status of nearly \$42,000 in state and federal tax liens. *Old Village Pub was unable to award at least \$500 in pull-tab prizes to a player until nine days after the prizes were won. The licensee also had numerous record-keeping violations. In addition, Old Village Pub has failed to make local gambling tax payments to the City of Lynnwood, and operated pull-tab games without a license in January 2014.*

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1. In March 2013, a Gambling Commission Special Agent (agent) began to review the license file for Old Village Pub because their last three licensing payments were returned for non-sufficient funds. (The licensee has since made the payments.) During this review, the agent noted other concerns.

2. Old Village Pub has not submitted required quarterly activity reports for the first and second quarters of 2010 and the first and second quarters of 2012. Old Village Pub has yet to submit an activity report in a timely fashion, with some being as few as three days late and others over 60 days late.

3. The licensee received a \$300 Notice of Violation and Settlement (NOVAS)<sup>1</sup> for failure to submit its activity reports on February 7, 2012, and received another NOVAS on September 26, 2012, for \$500.

4. The agent sent Ms. Melony Halenbrek, President of Melony's Old Village Corp., an e-mail on April 1, 2013, requesting tax lien information and an updated lease agreement. On April 5, 2013, the agent called and left a message for Ms. Halenbrek, as she had not heard back. The lease provided by Old Village Pub along with its license application expired in February 2012. At minimum, the term of the lease has changed. The new/renewed lease has never been provided, and Ms. Halenbeck has never provided the requested information on the liens.

5. By searching a state database, the agent confirmed some payments have been made to reduce the licensee's state tax liens. However, it appears that nearly \$42,000 remains in combined federal and state tax liens.

6. Within the last year, Old Village Pub has provided three checks to the Gambling Commission that the bank returned for insufficient funds: Check 5352 for exceeding class in the amount of \$1,473; Check 5385 for second half payment in the amount of \$1,540; and Check 5422 to renew their license in the amount of \$3,080. The licensee subsequently replaced the bad checks with full payment.

7. On August 13, 2013, the Commission received Old Village Pub's Activity Report for the first and second quarters of 2013. The report was due by July 30, 2013.

**CR 2013-02122**

8. *On November 12, 2013, an agent received information about complaints made against Old Village Pub. According to the complaints, Old Village Pub did not have enough money to pay pull-tab prizes to their customers. One complainant indicated they won \$600 on pull-tabs but the bar did not have enough money to pay him his prize. The complainant said the licensee took money out of the tip jars to help pay for the prize. Another customer in the bar at the time gave Old Village Pub some cash in exchange for credit on an alcohol tab. The licensee also failed to weigh games and complete their paperwork.*

9. *The agent went to Old Village Pub and found the licensee had 18 games in play; however, these games had already been recorded on a monthly income summary<sup>2</sup> but were not yet removed from play, in violation of Commission rules.*

10. *While the agent was at Old Village Pub, an anonymous source said the licensee was unable to pay many of their large pull-tab prizes with cash. The agent reviewed every game in play for*

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<sup>1</sup> 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.

<sup>2</sup> Monthly Income Summary- After a pull-tab game is removed from play, pull-tab operators must record all sales associated with the pull-tab game on this record. Pull-tab operators must complete this record in the format the Commission requires.

prize winners and found two prizes. On the winners record there was a hand written-note that said "Not Paid" and was circled.

11. Bartender Valerie Janowiak provided the agent with copies of all purchase invoices and income summaries printed from their Fast Tab pull-tab computer system<sup>3</sup> from January 1, 2013 to current.

12. The agent found a merchandise game that had been in play since December 20, 2013, with the flare taken down and put with the unsold tabs. The game had no merchandise prizes left and 36 of the 42 remaining cash prizes had been won. The game had its last merchandise prize awarded January 20, 2013. The game was placed on their February 2013 monthly income summary. The licensee materially understated their prizes paid by \$30 and understated pull-tabs sold by 650, which understated their gross receipts by \$65.

13. On November 13, 2013, the agent spoke with Nancy Smith at Wow Distributing to get invoices so he could compare them to Old Village Pub's invoices. The agent found discrepancies comparing the invoices. The agent used a pull-tab inventory spreadsheet to determine whether all games purchased by Old Village Pub were accounted for. The agent determined there were a total of 11 games that had been purchased since January 1, 2013, that were not accounted for.

14. On November 18, 2013, the agent went to Old Village Pub and spoke with Ms. Janowiak. The agent asked if a certain customer was ever paid for a pull-tab prize that he won on November 4, 2013, and the agent determined that the customer was fully paid on November 13, 2013. The agent also asked her if the bartender knew the customer was owed money for his pull-tab prize winnings, and she said that all of the bartenders knew.

15. On November 19, 2013, the agent met with Ms. Halenbeck at Old Village Pub. The agent asked if she had any games stored at her house, and she said no. She told the agent all of the games at her house had been burned and should have been beyond their retention requirement. The agent explained that when she pulls a game from play, the game must be on that month's monthly income summary. The agent explained again that she must complete the monthly income summaries within a month following the last day of the month for which she is completing records. The licensee should have retained the unsold pull tabs for three games until at least November 30, 2013; these unsold pull-tab were not available on the agents initial visit on November 12, 2013. Ms. Halenbeck also failed to retain at least the flare and winning pull tabs over \$20 for at least 16 pull-tab games.

16. According to Ms. Halenbeck, when the bartender pulls a game down, they don't close it out. They move it into a different bowl number within the Fast Tab system so the system still registers the game as in play. The bartender, however, puts the game into a bag and places it underneath the counter for Ms. Halenbeck to weigh and close out the system.

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<sup>3</sup> The Fast Tab system records all information for pull-tab games including tickets sold and prizes paid. The system calculates the net win and over/shortage for each game.

17. Ms. Halenbeck said she was aware they were unable to pay pull-tab prizes to their customers. She said when a player wins prize money the bartender will call her and she will come down to give the player their money. The agent asked if they have ever offered an alcohol tab or pull-tabs in lieu of prizes, and she said no.

18. On November 20, 2013, an agent weighed seven games he had retained the day prior. By weighing the game, the agent was able to obtain the number of unsold pull-tabs that were left in each game. In addition, the agent counted the total number of winning pull-tabs, cost of the game, gross receipts, prizes paid and net receipts.

19. For five games tested, Old Village Pub understated the number of sold tabs for each game, resulting in the understatement of gross receipts by a total of \$1,989.50. For the same five games, Old Village Pub also understated their prizes paid in the total amount of \$896.

20. The agent talked to Ms. Halenbeck about the discrepancies. He asked her what her process was for recording a game on the monthly income summaries. She told the agent each container that holds the pull-tabs for a game has its own tare weight<sup>4</sup> written on the back of the container. When a game is put into play, the unsold tabs are poured into the container and then placed on their scale, without the drawer of the container that is used to retain the winning pull-tabs. She inputs the weight of the container into the Fast Tab system, which calculates a weight per ticket. When a game is pulled, the remaining unsold pull-tabs are weighed on the scale again and the new weight is input into the Fast Tab system, which records the total number of unsold pull-tabs for the game. The Fast Tab system calculates the sold tabs and gross receipts for the game on its own.

21. The agent informed Ms. Halenbeck that for every game weighed, the gross receipts and prizes paid were consistently and grossly underreported. The agent told Ms. Halenbeck to retain the remaining games she had recently recorded on the November 2013 monthly income summary and keep them until further notice.

22. In addition, the agent showed Ms. Halenbeck the Game View report generated by the Fast Tab System showing the games currently in play. He pointed out several games show the "Date In Play" as occurring in 2006. Ms. Halenbeck said there must be a problem with the Fast Tab system because she was not around in 2006. She had no explanation for the 2006 dates appearing on the records.

23. On December 2, 2013, the agent weighed and tested another ten games. For all ten games weighed and tested, the combined amount of gross receipts the licensee under-reported was \$4,465. The total amount of prizes paid the licensee under-reported for the ten games was \$1,898.

24. At the end of 2013, Old Village Pub failed to renew their pull-tab license and it expired effective January 1, 2014.

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<sup>4</sup> Weight of an empty container.

25. On January 9, 2014, the agent met with one of the customers who provided a written statement concerning Old Village Pub's failure to pay his pull-tab prize money.

26. On January 13, 2014, the agent went to Old Village Pub to see if they were still operating pull-tabs without a valid license. Old Village Pub had not taken down their pull-tab games. The bartender told the agent they were still operating pull-tabs. The agent obtained a list of games currently in play from their Fast Tab system. Of the 39 games listed as currently in play, 22 games were physically in play and 16 of them had pull-tabs sold in January 2014, after the license expired. The agent sent Ms. Halenbeck an e-mail advising her of his findings and requesting her to contact him as soon as possible. The agent did not hear back from Ms. Halenbeck.

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27. On February 18, 2014, Commission staff received a letter from the Finance Director of the City of Lynnwood. The letter petitioned the Gambling Commission to revoke or suspend Melony's Village Corporation d/b/a Old Village Pub's punchboard/pull-tab license for non-payment of city gambling taxes.

28. Old Village Pub owes taxes for the following quarters:

- 4<sup>th</sup> quarter 2012- \$1,900
- 1<sup>st</sup> quarter 2013- \$3,669
- 2<sup>nd</sup> quarter 2013- \$2,150
- 3<sup>rd</sup> quarter 2013- \$4,271
- 4<sup>th</sup> quarter 2013- \$1,900

The total due to the City is \$15,441.25 (\$13,026.04 in past taxes and \$2,415.21 in penalties).

**VIOLATIONS:**

**1) RCW 9.46.075(1) and (5) 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 subsections apply.)

(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.

(5) Denies the commission or its authorized representatives access to any place where a licensed activity is conducted or who fails promptly to produce for inspection or audit any book, record, document or item required by law or commission rule;

**2) 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.

*(4) Has failed to pay gambling taxes to local taxing authorities and the local taxing authority has petitioned us to take action; or*

(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.

(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.

**3) RCW 9.46.170 False or misleading entries or statements, refusal to produce records.**

Whoever, in any application for a license or in any book or record required to be maintained by the commission or in any report required to be submitted to the commission, shall make any false or misleading statement, or make any false or misleading entry or willfully fail to maintain or make any entry required to be maintained or made, or who willfully refuses to produce for inspection by the commission, or its designee, any book, record, or document required to be maintained or made by federal or state law, shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021.

**4) WAC 230-06-080 Report changes to application information and submit updated documents and information**

(1) Licensees must notify us in writing if any information filed with the application changes in any way within thirty days of the change.

**5) 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.

**6) WAC 230-14-090 Controlling prizes.**

*Punch board and pull-tab operators must:*

*(The following subsection applies.)*

(2) *Award all prizes won.*

**7) WAC 230-14-265 Retention requirements for punch boards and pull-tab series.**

*(The following subsection applies.)*

*(4) Operators must retain punch board or pull-tab series removed from play for:*

*(b) Commercial operators -*

*(i) Two months following the last day of the month in which they removed the board or series from play; and*

*(ii) Three months following the day they removed the board or series from play for winning punches or pull-tabs over twenty dollars. Operators must also retain the flare for these games.*

**8) WAC 230-14-285 Monthly income summary.**

*(The following subsection applies.)*

*(1) Punch board and pull-tab licensees must prepare a detailed monthly income summary for punch board and pull-tab series removed from play in the format we require either manually or electronically.*

Old Village Pub has shown a willful disregard for complying with by failing to provide information regarding the status of their tax liens and a new/renewed lease, despite repeated requests, in violation of RCW 9.46.170 and WAC 230-06-080. By repeatedly failing to submit activity reports to Commission staff within the due dates, and failing to submit some at all, Old Village Pub is in violation of WAC 230-14-284(1) and (2). *Old Village Pub was unable to award at least \$500 in pull-tab prizes to a player until nine days after the prizes were won, in violation of WAC 230-14-090. The licensee failed to maintain accurate monthly income summaries, in violation of WAC 230-14-285. Old Village Pub failed to retain unsold pull-tabs for two months following the last day of the month the game was pulled. Also, the licensee failed to retain flare and winning tabs over \$20 for three months from the date the game was pulled, in violation of WAC 230-14-265. In addition, the licensee has failed to make local gambling tax*

payments. Therefore, grounds exist for the suspension or revocation of Old Village Pub's license to conduct gambling activities, based on RCW 9.46.075(1), and (5), and WAC 230-03-085(1), (3), (4), (7) and (8).

III.

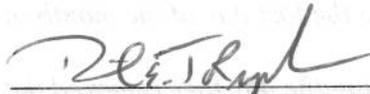
Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

The licensee will have the opportunity to have a hearing on the alleged violations. In order to have a hearing, the enclosed REQUEST FOR HEARING must be completed in full by the licensee or representative and returned to the Gambling Commission within 23 days from the date of the mailing of this notice. Based on RCW 34.05.440, FAILURE TO RETURN THIS DOCUMENT WILL RESULT IN THE ENTRY OF A DEFAULT ORDER FOR REVOCATION OF YOUR LICENSE.

IV.

I have read this Second Amended Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding, know the contents of it, believe it to be true, and have executed this Notice in my capacity as Director of the Washington State Gambling Commission.

Dated March 21, 2014



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DAVID TRUJILLO, DIRECTOR

STATE OF WASHINGTON  
GAMBLING COMMISSION

In the Matter of the Suspension or Revocation of the )  
License to Operate Gambling Activities of: )

No. CR 2013-00478

Melony's Village Corp. )  
d/b/a Old Village Pub )  
Lynnwood, Washington, )

**DECLARATION OF  
PERSONAL SERVICE**

Licensee. )  
\_\_\_\_\_ )

STATE OF WASHINGTON )

COUNTY OF Snohomish )  
(fill in) )

ss.

I, Daniel Frey hereby declare:  
(Print name)

1. QUALIFICATIONS. At all times mentioned, I was over the age of twenty-one and competent to be a witness in such action.

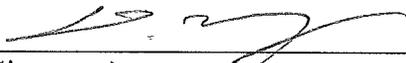
2. TIME, PLACE, MANNER. On 3-27-14 I personally served Kayla McVie with a copy of the **Cover letter for Second**

**Amended Charges, Second Amended Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding, and Notice of Prehearing Conference** by delivering to her a true copy of the

SAME at 22908 41<sup>st</sup> Pl. W.

Mountlake Terrace, WA

98043

  
(Signature)