

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension or)
Revocation of the Licenses to Conduct)
Gambling Activities of:)
)
Tin Hat,)
Kennewick, Washington,)
)
Licensee.)
_____)

No. CR 2013-01630

SECOND AMENDED
**NOTICE OF ADMINISTRATIVE
CHARGES AND OPPORTUNITY
FOR ADJUDICATIVE PROCEEDING**
(Amendments in italics and strikeouts)

I.

The Washington State Gambling Commission issued Tin Hat, organization number 00-21828, the following licenses:

- Number 65-07259, Authorizing Class “D” Public Card Room activity; and
- Number 05-20798, Authorizing Class “C” Punchboard/Pull-Tab activity.

The licenses expire on March 31, 2014, and were issued subject to the licensee’s compliance with state gambling laws and regulations.

II.

David Trujillo, 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:

SUMMARY:

The licensee ~~failed to~~ *did not submit* its punchboard/pull-tab activity report for the first and second quarters of 2013, ~~until on~~ *November 22, 2013*; ~~which it~~ *was due by July 30, 2013*. This is the fourth time in the last five reporting periods that the licensee has not timely submitted their required activity reports. This is also a settlement order violation. *The licensee failed to pay the second half payment for its gambling license, which was due by September 30, 2013, and operated until December 31, 2013, with an invalid license.*

FACTS:

- 1) On September 15, 2011, Tin Hat was issued a \$300 Notice of Violation and Settlement (NOVAS)¹ for late submission of the first and second quarter activity report for 2011.

¹ NOVAS- Notice of Violation and Settlement identifies the violation and gives the licensee the opportunity to pay a fine to settle the matter.

- 2) On February 29, 2012, Tin Hat was issued a \$300 NOVAS for late submission of the third and fourth quarter activity report for 2011.
- 3) On October 12, 2012, Commission staff issued a statement of charges for late reporting of Tin Hat's activity reports for the first and second quarters of 2012. On January 11, 2013, the license entered into a Settlement Order agreeing to a fifteen-day suspension, with three days deferred for two years, and twelve days vacated by payment of \$1,300.
- 4) In the Settlement Order, the licensee agreed to submit all subsequent gambling activity reports no later than 30 days following the end of the period for which it is made.
- 5) ~~As of September 4, 2013, Tin Hat had not submitted their first and second quarterly activity reports for 2013, which were due on July 30, 2013. The licensee did not submit its activity report for the first and second quarters until November 22, 2013; it was due on July 30, 2013.~~
- 6) Tin Hat has the following history of submitting its activity reports:

QTR	DUE DATE	DATE RECEIVED	DAYS DELINQUENT	ADMINISTRATIVE ACTION
2011-1&2	7/30/2011	10/14/2011	76	\$300 NOVAS
2011-3&4 2&3	1/30/2012	3/16/2012	46	\$300 NOVAS
2012-1&2	7/30/2012	9/7/2012	39	15-day suspension, with 3 days deferred for one year and 12 vacated by \$1,300 for payment of fines and fees.
2012-3&4	1/30/2013	1/28/2013		In compliance
2013-1&2	7/30/2013	Not received yet-11/22/2013	115	

7) On October 15, 2013, a letter was sent to Tin Hat notifying the licensee that the second-half payment of its annual license fee was due on September 30, 2013, and all gambling activity must stop. On December 31, 2013, a Commission Special Agent (agent) delivered the same letter dated October 15, 2013, to the licensee. The owner was not present and the agent gave the letter to the bartender, to give to the owner.

The agent advised the bartender that the license to operate gambling was expired and had the bartender remove the pull-tabs, which she did.

VIOLATIONS:

1) RCW 9.46.075 Denying, suspending, or revoking of a license, or permit

Provides that 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.

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.

(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.

3) 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:

(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.

4) WAC 230-05-015 Two-part payment plan for license fees.

(1) If you are renewing an annual license or applying for an additional license, you may pay the license fee in two payments if:

(a) You elect to participate; and

(b) The license fee is at least eight hundred dollars; and

(c) You pay an administrative processing fee as set out in WAC 230-05-020 or 230-05-030, plus one-half of the annual license fees at the time of application or renewal.

(2) We issue licenses under the two-part payment plan with an expiration date of not more than one year and a second-half payment due date.

(a) If we receive your second-half payment on or before the due date, the license will remain in effect until the expiration date.

(b) If you do not submit the second-half payment on or before the due date, the license expires and gambling activities must stop. You must pay us the second-half payment regardless if you stop operating the gambling activity, close your business, surrender your license, or your license is revoked. If you do not pay the second-half payment, we may take action against other licenses you hold or refer the debt to collections, or both.

The licensee's failure to timely submit its activity reports *and failure to pay the second half payment when due* demonstrate its willful disregard for complying with WAC 230-14-284 and WAC 230-05-015. Therefore, grounds exist to suspend or revoke Tin Hat's licenses under RCW 9.46.075(1), WAC 230-03-085(1), (3) and (7), and WAC 230-05-015.

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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.

The licensee will have the opportunity to have a hearing on the alleged violations.

In order to have a hearing or discuss settlement options, the enclosed REQUEST FOR HEARING must be COMPLETED 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 REVOKING your licenses.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

~~David Trujillo, being first duly sworn on oath, deposes and says: That he has read the foregoing Notice of Administrative Charges and Opportunity for Adjudicative Proceeding, knows the contents thereof, and believes the same to be true, and that he is the Director of the Washington State Gambling Commission and in that capacity has executed said Statement of Charges.~~

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 January 3, 2014

D. Trujillo
DAVID TRUJILLO, DIRECTOR

STATE OF WASHINGTON)
)
COUNTY OF THURSTON)

I certify I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy, property 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 3 day of January, 2014
Maurice Pretell