

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Denial of the Application
for a License to Conduct Gambling Activities of:

NO. CR 2014-00986
NO. CR 2013-01769

Bumpers Bowling, LLC d/b/a
Bumpers Bowling & Family Fun Center
Spokane Valley, Washington,

Applicant;

SETTLEMENT ORDER

And

In the Matter of the Revocation of the
License to Conduct Gambling Activities of:

Bumpers
Spokane Valley, Washington,

Licensee.

I.

The Washington State Gambling Commission and the applicant, Bumpers Bowling, LLC, and the licensee, Bumpers, enter into this Settlement Order to resolve administrative charges filed against the applicant and licensee. Gregory J. Rosen, Assistant Attorney General, and Arlene Dennistoun, Staff Attorney, represent the Gambling Commission. The applicant/licensee, through its co-owner, Lea Ann Servatius, represents itself.

II.

Bumpers Bowling, LLC, Organization Number 00-23243, at 12828 E. Sprague Avenue, Spokane Valley, applied for a class "C" commercial amusement game license, number 53-21281. The class "C" license allows a person to conduct commercial amusement games at its premises and to place games at other licensed locations. Lea Ann Servatius has since requested a downgrade of her license application from a "C" to an "A," which allows Ms. Servatius to rent her premises to a licensee to operate amusement games.

The licensee, Bumpers, Organization Number 00-21321, at 12828 E. Sprague Avenue, Spokane Valley, received a class "C" commercial amusement game license, number 53-20891, from the Gambling Commission. The license expired on August 23, 2014.

The licensee and the applicant were subject to compliance with state gambling laws and regulations.

III.

The Director of the Gambling Commission issued a Notice of Administrative Charges and Opportunity for an Adjudicative Hearing for CR 2013-01769, on May 23, 2014, seeking the revocation of Bumpers' license. On June 12, 2014, Commission staff received the licensee's request for a hearing.

The Director of the Gambling Commission issued a Notice of Administrative Charges and Opportunity for an Adjudicative Hearing for CR 2014-00986, on June 17, 2014, seeking denial of the license application. Commission staff received the applicant's request for a hearing on July 10, 2014.

IV.

The following summary of facts and violations were alleged in the Notices of Administrative Charges against the applicant and the licensee:

Bumpers Bowling LLC, CR 2014-00986 (Denial of Application for a License)

SUMMARY:

Grounds for denial of Bumpers Bowling, LLC's application for a license include operating commercial amusement games between April 2013 and April 2014 without a license, and having pending administrative charges for the revocation of Bumpers' license based on operating without a valid license. (Bumpers' license expired in August 2014.)

VIOLATIONS:

1) RCW 9.46.075 Denial, suspension, or revocation of certification, application, 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.

(8) Fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this chapter.

(10) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain.

2) 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, certified employee, or anyone holding a substantial interest in the applicant's or certified employee'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; or

(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.

3) RCW 9.46.160 Conducting activity without a 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.

4) RCW 9.46.033 Amusement games authorized – Minimum rules.

The legislature hereby authorizes any person to conduct or operate amusement games when licensed and operated pursuant to the provisions of this chapter and rules and regulations adopted by the commission at such locations as the commission may authorize. The rules shall provide for at least:

(The following subsection applies.)

(1) Persons other than bona fide charitable or bona fide nonprofit organizations shall conduct amusement games only after obtaining a special amusement game license from the commission.

5) RCW 9.46.153 Applicants and licensees — Responsibilities and duties — Waiver of liability — Investigation statement as privileged.

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.

Bumpers Bowling, LLC operated commercial amusement games without a valid license between April 2013 and April 2014. This conduct violated RCW 9.46.160.

By violating RCW 9.46.160, the applicant failed to prove by clear and convincing evidence, as required by RCW 9.46.153, that it is qualified to be licensed. By repeatedly operating without a valid license between April 2013 and April 2014, the applicant pursued economic gain in an occupational manner or context, violating criminal or civil policy, which creates probable cause to believe the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity.

The applicant's repeated operation without a valid license between April 2013 and April 2014 demonstrates willful disregard for complying with statutes and administrative rules. The applicant 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 the applicant's prior activities of repeatedly operating without a valid license between April 2013 and April 2014. Grounds, therefore, exist to deny Bumpers Bowling LLC's license application under RCW 9.46.075(1), (8), and (10), and WAC 230-03-085(1), (3) and (8).

Bumpers, CR 2013-01769 (Revocation of License)

SUMMARY:

Bumpers operated commercial amusement games without a valid license for about ten days in 2013 and about 20 days in 2012. Bumpers failed to purchase identification stamps in 2012 and 2013, failed to timely submit annual activity reports, failed to report information required on its 2013 activity report, and failed to comply with operational and recordkeeping rules for amusement game operators. The Department of Revenue revoked Bumpers taxpayer's Certificate of Registration in September 2013 for unpaid taxes.

VIOLATIONS:

1) RCW 9.46.075 Denial, suspension, or revocation of certification, application, 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.

(7) Makes a misrepresentation of, or fails to disclose a material fact to the commission.

(8) Fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this chapter.

(10) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain.

2) 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, certified employee, or anyone holding a substantial interest in the applicant's or certified employee'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; or

(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.

3) RCW 9.46.153 Applicants and licensees — Responsibilities and duties — Waiver of liability — Investigation statement as privileged.

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.

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4) RCW 9.46.160 Operating Amusement Games Without a License.

Provides that 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.

Bumpers operated commercial amusement games without a valid license between September 6 and September 16, 2013, and between August 24 and September 13, 2012. This conduct violated RCW 9.46.160.

By violating RCW 9.46.160, the licensee has failed to prove by clear and convincing evidence, as required by RCW 9.46.153, that it is qualified to be licensed. By repeatedly operating without a valid license in 2012 and 2013, the licensee pursued economic gain in an occupational manner or context, violating criminal or civil policy, creating probable cause to believe the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity.

The licensee's repeated operation without a valid license in 2012 and 2013 demonstrates willful disregard for complying with statutes and administrative rules. The licensee 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 the licensee's prior activities of repeatedly operating without a valid license in 2012 and 2013. Grounds, therefore, exist to revoke Bumpers' license under RCW 9.46.075(1), (8), and (10), and WAC 230-03-085(1), (3) and (8).

5) WAC 230-13-169 Annual Activity reports for commercial amusement game licensees.

Commercial amusement game licensees must submit an annual activity report to us in the format we require and must:

(The following subsections apply.)

(2) Be received at our administrative office or postmarked no later than thirty days following the end of the reporting period; and

(5) Complete the report according to the instructions furnished with the report.

The licensee's 2012 activity report was due September 23, 2012, but was not postmarked or received by staff until October 26, 2012. The licensee's 2013 activity report was due September 22, 2013, but was not postmarked or received until January 28, 2014. This conduct violated WAC 230-130-169(2).

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The activity report and instructions require the licensee to report prizes paid, but the licensee failed to report prizes on its 2013 report, because, Ms. Servatius said, prizes did not make a difference in her license class so she did not think she needed to report them. The licensee's conduct violated WAC 230-13-169(5), and the licensee has failed to prove by clear and convincing evidence, as required by RCW 9.46.153, that it is qualified to be licensed.

Grounds, therefore, exist to revoke Bumpers' license under RCW 9.46.075(1), (7), (8), and WAC 230-03-085(1), (3) and (8).

6) WAC 230-06-090 Report administrative and civil actions filed.
(The following subsections apply.)

(2) Licensed organizations must report to us in writing within thirty days all civil and administrative actions that are filed by or against any manager of the licensed gambling activity, the business organization, or any person holding a substantial interest in the business organization.

(3) The report must consist of a complete copy of the original documents filed. Licensees must notify the commission of the final disposition of the case and include a copy of the final documents filed including, but not limited to, settlement agreements.

The Department of Revenue revoked the licensee's Certificate of Registration. The licensee failed to notify the Commission in writing about the Department of Revenue's revocation (administrative action), and failed to notify Commission of the final disposition of the case and submit a complete copy of the final documents filed. This conduct violated WAC 230-06-090(2) and (3), and the licensee has failed to prove by clear and convincing evidence, as required by RCW 9.46.153, that it is qualified to be licensed.

Grounds, therefore, exist to revoke Bumpers' license under RCW 9.46.075(1), (7), (8), and WAC 230-03-085(1), (3) and (8).

7) WAC 230-16-165(3) Purchasing I.D. Stamps

Owners of gambling equipment, which require annual I.D. stamps, must purchase I.D. stamps from us and attach them to their gambling equipment. Annual I.D. stamps expire on December 31 each year, even if the equipment was placed out for play mid-year.

The licensee failed to purchase and attach identification stamps on amusement games they owned. In 2013, agents found the licensee had not purchased I.D. stamps since 2011. The licensee did not buy the required I.D. stamps for 2012, 2013, and 2014 until December 23, 2013. The licensee's conduct violated WAC 230-16-165(3), and the licensee has failed to prove by clear and convincing evidence, as required by RCW 9.46.153, that it is qualified to be licensed.

Grounds, therefore, exist to revoke Bumpers' license under RCW 9.46.075(1), (8), (10), and WAC 230-03-085(1), (3) and (8).

8) WAC 230-13-080 Operating coin or token activated amusement games.

(1) Coin or token activated amusement games must have nonresetting coin-in meters, certified as accurate to within plus or minus one coin or token in one thousand plays, which stop play of the machine if the meter is removed or disconnected when operating at:

(The following subsections apply.)

- (d) Bowling alleys; or
- (e) Miniature golf course facilities; or
- (h) Amusement centers; or
- (i) Restaurants.

The licensee operated amusement games, at its premises, called "Big Bertha" and "Rock N Bowl" without coin-in meters between at least January 2013 and September 2013. The licensee's manager, Zach Servatius said "Big Bertha" has never had a coin-in meter and has been operating for years. This conduct violated WAC 230-13-080(1).

Based on the licensee's record of the number of coins and tokens collected between September 20 and October 1, 2013, and the number of plays from meter readings, agents determined the difference between the coins collected and the meter readings (for the games with coin-in meters) was 1,391 coins compared with 9,244 meter readings. The agent concluded there was 15 percent more coins collected than the licensee recorded on its coin-in meters. Coin-in meters must be certified as accurate to within plus or minus one coin or token in one thousand plays; therefore, the licensee violated WAC 230-13-080, and the licensee has failed to prove by clear and convincing evidence, as required by RCW 9.46.153, that it is qualified to be licensed. Grounds, therefore, exist to revoke Bumpers' license under RCW 9.46.075(1), (8), (10), and WAC 230-03-085(1), (3) and (8).

9) WAC 230-13-170 Recordkeeping for commercial amusement games.

(The following subsections apply.)

(1) Amusement game licensees must prepare a detailed record for each location where they operate games. They must retain the records for at least three years. The records must include details necessary to determine:

- (a) Gross gambling receipts received from players; and
- (b) Value of prizes awarded to winners.

(2) Records must include, at least:

- (a) The gross gambling receipts collected from amusement games at each location, with receipting records; and
- (b) An entry for each withdrawal of receipts from the games. Coin or token activated amusement games only require an entry of the ending meter reading, the number of plays, and gross gambling receipts at the end of each month; and

(c) A summary of the operation of the activity. This includes, at least, coin-in meter readings and gross gambling receipts. Operators must provide these coin-in meter readings and gross gambling receipts to charitable or nonprofit organizations each time they service a game or disburse money.

(4) For amusement games that issue tickets for the redemption of prizes, licensees must at least log the beginning and ending nonresettable ticket out meters or ticket numbers during each collection of funds from each game.

(5) Licensees must provide the full details for all amusement game operating expenses.

The licensee could produce no records between September and November 2012 from its previous Northtown Mall location. The licensee said her computer broke during the move to its current location and all records were lost. This conduct violated WAC 230-13-170(1), (2), (4) and (5), and the licensee has failed to prove by clear and convincing evidence, as required by RCW 9.46.153, that it is qualified to be licensed.

The licensee's records from Lilac Lanes do not have ticket out meter readings between at least August 20, 2012 and October 16, 2013. The licensee's records between September 2012 and September 17, 2013, for amusement games at Five Mile Pizza, did not include coin-in meter readings, and did not include ticket out meter readings. This conduct violated WAC 230-13-170(1), (2), (4) and (5), and the licensee has failed to prove by clear and convincing evidence, as required by RCW 9.46.153, that it is qualified to be licensed.

The licensee's records between January 2013 and September 16, 2013, for amusement games at its current Spokane Valley location did not include ticket out meter readings. The records did not contain enough detail to determine cash overages or shortages. The licensee did not record the coin and tokens collected from each amusement game. The licensee did not record revenue from the amusement games based on the coin-in meter readings or the actual coins and tokens collected from the amusement games, but based its revenue on the money taken from the coin change machine and deposited in its bank account. This conduct violated WAC 230-13-170(1), (2), (4) and (5), and the licensee has failed to prove by clear and convincing evidence, as required by RCW 9.46.153, that it is qualified to be licensed.

Grounds, therefore, exist to revoke Bumpers' license under RCW 9.46.075(1), (8) and WAC 230-03-085(1) and (8).

V.

1) The licensee/applicant acknowledges it received the Notices of Administrative Charges issued in CR 2013-01769 and in CR 2014-00986, and understands the facts and violations alleged.

2) The licensee/applicant knowingly waived its right to a hearing based on the terms and conditions of this Settlement Order.

3) The applicant has since withdrawn its application for a class "C" amusement game license and has downgraded its application from a class "C" to a class "A" premises only amusement game license. The class "A" license allows the applicant to rent or lease its premises to a licensed amusement game operator, but does not allow operation of amusement games. A class "A" amusement game licensee is prohibited from operating games, and is not responsible for record keeping requirements.

4) The licensee, Bumpers, did not renew its license, which expired on August 23, 2014. However, administrative charges were issued prior to the license expiration, and the parties agree the Commission retains jurisdiction over the licensee and the alleged violations.

5) The licensee/applicant has agreed to sell its games to Bullseye Amusement contingent upon the applicant obtaining a license from the Commission.

6) The licensee/applicant agrees it must prove it has entered into an approved payment plan with the Washington State Department of Revenue. Failure to be current with taxes owed to any governmental entity, is a violation of the Settlement Order. If a governmental entity notifies Commission staff of the licensee/applicant's failure to pay taxes owed, the Director may issue charges revoking the license(s) issued to Bumpers Bowling, LLC. Bumpers Bowling, LLC may request an adjudicative proceeding, which includes a hearing.

7) The applicant must not violate Washington's gambling statutes or regulations for one (1) year from this Settlement Order. If the applicant violates gambling statutes or regulations, and the violation is the type that warrants filing administrative charges, the Director may take appropriate administrative action against the applicant's gambling license(s), including revoking the license(s) issued to the applicant. The applicant may request an adjudicative proceeding, which includes a hearing on the alleged violations.

8) The parties agree that the Director of the Washington State Gambling Commission, based on this Settlement, has sole discretion to determine whether the applicant has violated any term of this Settlement. If the Director determines a violation has occurred, he may take appropriate administrative action against the license(s) issued to the applicant. The applicant shall have an opportunity for a hearing on the alleged violations.

9) The licensee/applicant agrees to not upgrade its license for five years from this Settlement Order.

10) The licensee/applicant agrees not to sue the Gambling Commission, including any staff, Special Agents, the Director or Commissioners.

11) The licensee/applicant agrees to pay the Commission a penalty of **\$5,833**, representing the Commission's investigative and administrative costs from CR 2014-00986. The Commission agrees to allow the licensee/applicant to pay the penalty in six installments. The first installment of **\$972.16** is due on December 29, 2014. The next four installments of **\$972.16** are due on the last business day of each month. The final installment of **\$972.20** is due on July 31, 2015.

12) Commission staff must **receive the signed Settlement Order and \$972.16 payment of its first installment of the penalty by December 29, 2014.** Payments must be mailed to:

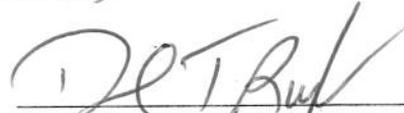
Washington State Gambling Commission
Attention: Communications and Legal Division
P.O. Box 42400
Olympia, WA 98504-2400

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; Third Floor
Lacey, WA 98503

13) If the applicant/licensee makes its payments as agreed, this matter will be deemed closed. However, if the applicant/licensee fails to timely make installment payments, the Director may impose a two-day suspension for each late payment. Serving the suspension however, will not relieve the applicant/licensee of its obligation to pay its penalty.

DATED this ^{22nd} 15 day of January December, ²⁰¹⁵ 2014.

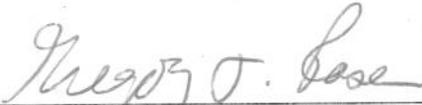


David Trujillo, Director

APPROVED FOR ENTRY:
By her signature, the licensee/applicant understands and accepts the terms and conditions of this Order.



Lea Ann Servatius (DATE)
Licensee/Applicant.

APPROVED AS TO FORM:


Gregory Rosen, WSBA #15870
Assistant Attorney General
Representing the Washington State
Gambling Commission



Arlene Dennistoun, WSBA #28760
Staff Attorney, Washington State
Gambling Commission