

WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS

In the matter of:

Bud's Bar & Grill,

Respondent/Licensee.

License No. 05-21252

Docket No. 06-2019-GMB-00098

**INITIAL ORDER
(BRIEF ADJUDICATIVE PROCEEDING)**

Agency: Gambling Commission
Program: License Fees & Reports
Agency No. CR 2019-00952

1. ISSUES:

- 1.1. Whether Bud's Bar & Grill failed to timely submit a quarterly license fee and quarterly license report to the Gambling Commission for the first quarter of 2019 in violation of Washington Administrative Code (WAC) 230-05-124 and WAC 230-05-132(1)?
- 1.2. If so, whether the Gambling Commission is authorized to suspend Bud's Bar & Grill's license, in accordance with Revised Code of Washington (RCW) 9.46.075(1) and WAC 230-03-085(1)&(5) and WAC 230-05-132(4)?

2. ORDER SUMMARY:

- 2.1. **AFFIRMED.** Bud's Bar & Grill failed to timely submit a quarterly licensee fee and quarterly license report to the Gambling Commission for the first quarter of 2019 in violation of WAC 230-05-124 and WAC 230-15-132(1). The Washington State Gambling Commission's 'Notice of Administrative Charges CR 2019-00952' is **affirmed**.
- 2.2. **SUSPENDED.** Bud's Bar & Grill's Gambling License No. 05-21252 is suspended in accordance with RCW 9.46.075(1) and WAC 230-03-085(1)&(5) and WAC 230-05-132(4). The license will remain suspended until Bud's Bar & Grill submits the outstanding quarterly licensing fee and licensing report to the Gambling Commission for the first quarter of 2019, including the payment of any additional costs associated with the collection of the fee. Bud's Bar & Grill's Gambling License No. 05-21252 is **suspended**.

3. HEARING:

- 3.1. Hearing Date: July 8, 2019
- 3.2. Admin. Law Judge: TJ Martin
- 3.3. Respondent: Bud's Bar & Grill (Respondent/Licensee).
 - 3.3.1. Representative: No one appeared on behalf of the Respondent.
 - 3.3.2. Witnesses: No witnesses appeared for the Respondent.

- 3.4. Agency: Gambling Commission Staff (Commission Staff)
- 3.4.1. Representative: Kellen Wright, Assistant Attorney General
- 3.4.2. Witnesses: Gambling Commission Staff did not call any witnesses.
- 3.5. Exhibits: Gambling Commission Staff Exhibits 1 through 10 were admitted.
- 3.6. Observing: Julie Sullivan, Gambling Commission Special Agent

4. FINDINGS OF FACT:

Jurisdiction-

- 4.1. On June 7, 2019, the Washington State Gambling Commission (Gambling Commission) issued and served a 'Notice of Administrative Charges-CR 2019-00952' (Notice). The Notice alleged Bud's Bar & Grill failed to timely submit a quarterly license fee¹ and quarterly report to the Gambling Commission¹ within 30 days following the end of the first quarter of 2019, or within the additional thirty-day filing and payment period. *Exhibit ('Ex.')* 1.
- 4.2. The Gambling Commission referred the Appellant's matter to the Office of Administrative Hearings (OAH) to assign an administrative law judge to conduct a Brief Adjudicative Proceeding (BAP), as provided by WAC 230-17-150(5).
- 4.3. On June 10, 2019, the Gambling Commission served notice on the Appellant regarding the BAP hearing, scheduled for July 8, 2019.
- 4.4. The Appellant did not appear for the telephonic hearing.

Failure to submit First Quarter 2019 license fee and report-

- 4.5. Bud's Bar & Grill (Bud's), holds a gaming license, authorizing punchboard/pull-tab commercial stimulant activity. *Exhibit ('Ex.')* 2; *Page ('Pg.')* 1.
- 4.6. The Appellant obtained a gaming license in 2014. The Appellant's license expires on December 31, 2019. *Ex. 2; pg. 1.*
- 4.7. Bud's quarterly license report and license fee for the First Quarter of 2019 were due on April 30, 2019. *Ex. 2; pg. 2.*
- 4.8. On March 31, 2019, the Gambling Commission sent an email to Bud's, reminding the business to file its quarterly license report and license fee for the first quarter of 2019 by April 30, 2019. *Ex. 3; pg. 4 and Ex. 6; pgs. 1-2.*
- 4.9. On April 20, 2019, the Gambling Commission sent another email to Bud's, reminding the business to file its quarterly license report and license fee for the first quarter by April 30, 2019. *Ex. 3; pg. 4 and Ex. 7; pgs. 1-2.*

- 4.10. On April 23, 2019, the Gambling Commission sent another reminder email to Bud's regarding the filing of its first quarter report and fee. *Ex. 3; pg. 4 and Ex. 8; pg. 1.*
- 4.11. Two days later, on April 25, 2019, the Gambling Commission sent another reminder email to Bud's regarding the filing of its first quarter report and fee. *Ex. 3; pg. 4 and Ex. 9; pg. 1-2.*
- 4.12. Bud's failed to submit either the quarterly license report or license fee by the April 30, 2019 deadline. *Ex. 2; pg. 2.*
- 4.13. On May 2, 2019, the Gambling Commission emailed Bud's that its first quarter license report and license fee were past due. *Ex. 3; pg. 4 and Ex. 10.*
- 4.14. The 'late reporting deadline' to submit license reports and license fees for the First Quarter of 2019 was May 30, 2019. *Ex. 2; pg. 2.*
- 4.15. Bud's failed to submit either the quarterly license report or license fee by the additional 30-day late filing and payment period. *Ex. 2; pg. 2.*
- 4.16. On June 7, 2019, based on Bud's failure to submit the required license fee and report for the first quarter of 2019, the Gambling Commission issued a 'Notice of Administrative Charges' against the Appellant. *Ex. 2.*
- 4.17. Based on its failure to file its first quarter license report and submit the license fee, Bud's owes 1.430% of their gross gambling receipts and a \$750 late fee. *Ex. 2; pg. 2 and Ex. 3; pg. 3.*
- 4.18. Bud's filed quarterly license reports and license fees for the Year 2018. *Ex. 4.*
- 4.19. The Appellant has no previous administrative violations. *Ex. 2; Pg. 1.*

5. CONCLUSIONS OF LAW:

Jurisdiction-

- 5.1. The administrative court has jurisdiction over the person and subject matter of this case under Chapter 34.05 RCW, Chapter 9.46 RCW and WAC 230-17-151(e).

Violation charged-

- 5.2. All organizations licensed by the Washington State Gambling Commission must submit activity reports quarterly. WAC 230-05-102(1).
- 5.3. Quarterly reports must be submitted for any licensed period, even if no gambling activity occurred. The quarterly license fees must also be submitted on the same schedule. WAC 230-05-124(3)&(6).
- 5.4. The first quarter report covers the period of January 1st to March 31st. The Gambling Commission must receive the license report and fee for the first quarter no later than April 30th. WAC 230-05-102; WAC 230-05-124.

- 5.5. Licensees are afforded one thirty-day filing and payment period after their quarterly license reports and quarterly license fees are due. WAC 230-05-132(2). However, Licensees who do not file their quarterly reports and/or pay quarterly license fees within thirty days from the end of each quarter are in violation of WAC 230-05. WAC 230-05-132(1).
- 5.6. In the present case, Bud's Bar & Grill is an organization licensed by the Gambling Commission and subject to reporting requirements and fees of WAC 230-05.
- 5.7. Bud's Bar & Grill was required to submit a quarterly license fee and report for the first quarter of 2019. The deadline for submitting license reports and fees for the first quarter of 2019 was April 30, 2019. However, Bud's Bar & Grill failed to submit a quarterly license fee and/or report for the period.
- 5.8. Therefore, Bud's Bar & Grill failed to timely submit a quarterly license fee and report for the first quarter of 2019 in violation WAC 230-05-124 and WAC 230-05-132(1). The Washington State Gambling Commission's 'Notice of Administrative Charges' is **affirmed**.

License Suspension and Penalty-

- 5.9. RCW 9.46.075(1) authorizes suspension of any license or permit issued by the Commission because of violation of gambling law or regulations.
- 5.10. WAC 230-03-085(1) provides for suspension of licensure when the licensed organization has failed to pay a quarterly license fee and/or failed to submit a quarterly license report.
- 5.11. Further, WAC 230-03-085(5) makes a suspended party responsible for any late fees and additional costs associated with collection of the fees and costs, before the suspension is lifted or a new license is approved.
- 5.12. The Commission properly suspended Bud's Bar & Grill's gambling license under RCW 9.46.075 and WAC 230-03-085 for failing to file its first quarter license report and fee for the first quarter of 2019. Bud's Bar & Grill's gambling license No. 05-21252 is **suspended**.
- 5.13. Bud's Bar & Grill's license will remain suspended until it submits the outstanding quarterly licensing fee and licensing report to the Gambling Commission for the first quarter of 2019, including the payment of any additional costs associated with the collection of the fee, in accordance with WAC 230-15-132(4).

[Continued]

6. INITIAL ORDER:

THIS ADMINISTRATIVE COURT ORDERS:

- 6.1. **AFFIRMED.** Bud's Bar & Grill failed to timely submit a quarterly licensee fee and quarterly license report to the Gambling Commission for the first quarter of 2019 in violation of WAC 230-05-124 and WAC 230-15-132(1). The Washington State Gambling Commission's 'Notice of Administrative Charges CR 2019-00952' is **affirmed**.
- 6.2. **SUSPENDED.** Bud's Bar & Grill's Gambling License No. 05-21252 is suspended in accordance with RCW 9.46.075(1) and WAC 230-03-085(1)&(5) and WAC 230-05-132(4). The license will remain suspended until Bud's Bar & Grill submits the outstanding quarterly licensing fee and licensing report to the Gambling Commission for the first quarter of 2019, including the payment of any additional costs associated with the collection of the fee, in accordance with WAC 230-15-132(4). Bud's Bar & Grill's Gambling License No. 05-21252 is **suspended**.

Issued from Tacoma, Washington on the date of mailing.



TJ Martin
Administrative Law Judge
Office of Administrative Hearings

CERTIFICATE OF SERVICE ATTACHED

PETITION FOR REVIEW

Any party to this proceeding may file a Petition for Review of this initial order. WAC 230-17-152(1). The written petition for review must be mailed to the Washington State Gambling Commission at:

Washington State Gambling Commission
PO Box 42400
Olympia, WA 98504

The petition for review must be received by the Commission within twenty-one (21) days from the date this initial order was mailed to the parties. WAC 230-17-152(2). A copy of the petition for review must be sent to all parties of record. WAC 230-17-152(4). The petition for review must specify the portions of the initial order with which the party disagrees, and must refer to the evidence in the record which supports the party's position. The petition for review must contain any evidence or written material relevant to the matter that the party wishes the reviewing officer to consider. WAC 230-17-152(3).

CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 06-2019-GMB-00098

I certify that true copies of this document were served from Tacoma, Washington via Consolidated Mail Services upon the following as indicated:

Bud's Bar & Grill PO Box 1875 Milton, WA 98354 Respondent	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail
Chad C. Standifer, AAG Kellen Wright, AAG Office of the Attorney General MS: 40100 PO Box 40100 Olympia, WA 98504 Agency Representative	<input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input checked="" type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail
Ashlie Laydon Washington State Gambling Commission MS: 42400 PO Box 42400 Olympia, WA 98504 Agency Contact	<input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input checked="" type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail

Date: Monday, July 22, 2019

OFFICE OF ADMINISTRATIVE HEARINGS

Hailey Miles

Hailey Miles
 Legal Assistant 3

