

JUL 23 2019

WASHINGTON STATE  
OFFICE OF ADMINISTRATIVE HEARINGS

RECORDS

In the matter of:

Docket No. 06-2019-GMB-00099

Cheers Port Orchard Bar &amp; Grill,

**INITIAL ORDER  
(BRIEF ADJUDICATIVE PROCEEDING)**

Respondent/Licensee.

Agency: Gambling Commission  
Program: License Fees & Reports  
Agency No. CR 2019-00956

License No. 05-21458

**1. ISSUES:**

- 1.1. Whether Cheers Port Orchard 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 Cheers Port Orchard 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.** Cheers Port Orchard 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 2019-00956' is **affirmed**.
- 2.2. **SUSPENDED.** Cheers Port Orchard Bar & Grill's Gambling License No. 05-21458 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 Cheers Port Orchard Bar & Grill submits the outstanding quarterly license fee and license 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. Cheers Port Orchard Bar & Grill's Gambling License No. 05-21458 is **suspended**.

**3. HEARING:**

- 3.1. Hearing Date: July 9, 2019
- 3.2. Respondent: Cheers Port Orchard Bar & Grill (Respondent/Licensee)
  - 3.2.1. Representative: No one appeared on behalf the Respondent.
  - 3.2.2. Witnesses: No witnesses appeared for the Respondent.

- 3.3. Agency: Washington State Gambling Commission Staff  
(Commission Staff)
- 3.3.1. Representative: Kellen Wright, Assistant Attorney General
- 3.3.2. Witnesses: Commission Staff did not call any witnesses.
- 3.4. Exhibits: Commission Staff Exhibits 1 through 9 were admitted.
- 3.5. Observing: Administrative Law Judge Charles Bryant

#### **4. FINDINGS OF FACT:**

##### ***Jurisdiction-***

- 4.1. On June 7, 2019, the Washington State Gambling Commission (Gambling Commission) issued 'Notice of Administrative Charges CR 2019-00956' (Notice). The Notice alleged Cheers Port Orchard Bar & Grill (Cheers) failed to timely submit a quarterly license fee and quarterly report to the Gambling Commission within 30 days following the end of the first quarter of 2019, or within the additional thirty-day filing and payment period. *Exhibit ('Ex.')* 2.
- 4.2. The Gambling Commission referred the Respondent'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 sent notice to the Respondent regarding the BAP hearing, scheduled for July 9, 2019. *Ex. 1.*
- 4.4. The Respondent/Licensee, Cheers, did not appear for the telephonic hearing.

##### ***Failure to Submit First Quarter 2019 License Fee and Report-***

- 4.5. Cheers holds a gaming license, authorizing punchboard/pull-tab activity. *Ex. 3; Page ('Pg.')* 3.
- 4.6. Cheers' quarterly license report and license fee for the First Quarter of 2019 were due on April 30, 2019. *Ex. 3; pg. 3.*
- 4.7. On March 31, 2019, the Gambling Commission sent a 30-day reminder email to Cheers to file its quarterly license report and license fee for the first quarter of 2019 by April 30, 2019. *Ex. 5.*
- 4.8. On April 20, 2019, the Gambling Commission sent a 10-day reminder email to Cheers to file its quarterly license report and license fee for the first quarter by April 30, 2019. *Ex. 6.*
- 4.9. On April 23, 2019, the Gambling Commission sent another reminder email to Cheers to file its first quarter report and fee. *Ex. 7.*

- 4.10. On April 25, 2019, the Gambling Commission sent a five-day reminder email to Cheers to file its first quarter report and fee. *Ex. 8.*
- 4.11. Cheers failed to submit either the quarterly license report or license fee by the April 30, 2019 deadline. *Ex. 3; pg. 3.*
- 4.12. On May 2, 2019, the Gambling Commission notified Cheers its first quarter license report and license fee were past due. *Ex. 9.*
- 4.13. The 'late reporting deadline' to submit license reports and license fees for the first quarter of 2019 was May 30, 2019. *Exs. 2 & 3.*
- 4.14. Cheers failed to submit either the quarterly license report or license fee by the additional 30-day late filing and payment period. *Ex. 2.*
- 4.15. On June 7, 2019, based on Cheers' failure to submit the required license fee and report for the first quarter of 2019, the Gambling Commission issued a 'Notice of Administrative Charges CR 2019-00956' against Cheers. *Ex. 2; pg. 2.*
- 4.16. Based on its failure to file its first quarter license report and submit the license fee, Cheers owes 1.430% of their gross gambling receipts and a \$750 late fee. *Ex. 2; pg. 2.*
- 4.17. Cheers filed quarterly license reports and license fees for the Year 2018. *Ex. 4.*

## **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 1<sup>st</sup> to March 31<sup>st</sup>. The Gambling Commission must receive the license report and fee for the first quarter no later than April 30<sup>th</sup>. 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, Cheers Port Orchard Bar & Grill licensed by the Gambling Commission and subject to the reporting requirements and fees of WAC 230-05.
- 5.7. Under WAC 230-05-132(1), the Gambling Commission found Cheers Port Orchard Bar & Grill violated the requirements of chapter 230-05 WAC by failing to timely submit a quarterly license fee and report for the first quarter of 2019.
- 5.8. Cheers Port Orchard 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. Cheers Port Orchard Bar & Grill failed to submit a quarterly license fee and/or report for the period.
- 5.9. Therefore, Cheers Port Orchard 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 CR 2019-00956' is **affirmed**.

***License Suspension and Penalty-***

- 5.10. RCW 9.46.075(1) authorizes suspension of any license or permit issued by the Commission because of violation of gambling law or regulations.
- 5.11. 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.
- 5.12. 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.
- 5.13. The Commission properly suspended Cheers Port Orchard 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. Cheers Port Orchard Bar & Grill's gambling license No. 05-21458 is **suspended**.
- 5.14. Cheers Port Orchard Bar & Grill's license will remain suspended until it submits the outstanding quarterly license fee and license 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, based on WAC 230-15-132(4).

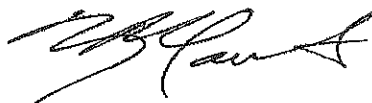
[Continued]

**6. INITIAL ORDER:**

**THIS ADMINISTRATIVE COURT ORDERS THAT:**

- 6.1. **AFFIRMED.** Cheers Port Orchard 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 WAC 230-05-124 and WAC 230-15-132(1). The Washington State Gambling Commission's 'Notice of Administrative Charges CR 2019-00956' is **affirmed**.
- 6.2. **SUSPENDED.** Cheers Port Orchard Bar & Grill's Gambling License No. 05-21458 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 Cheers Port Orchard Bar & Grill submits the outstanding quarterly license fee and license 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). Cheers Port Orchard Bar & Grill's Gambling License No. 05-21458 is **suspended**.

Issued from Tacoma, Washington on the date of mailing.



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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-00099**

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

<p>Cheers Port Orchard Bar &amp; Grill 3509 Carpenter Rd SE Lacey, WA 98503 <b>Respondent</b></p>	<p><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</p>
<p>Chad C. Standifer, AAG Kellen Wright, AAG Office of the Attorney General MS: 40100 PO Box 40100 Olympia, WA 98504 <b>Agency Representative</b></p>	<p><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</p>
<p>Ashlie Laydon Washington State Gambling Commission MS: 42400 PO Box 42400 Olympia, WA 98504 <b>Agency Contact</b></p>	<p><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</p>

Date: Monday, July 22, 2019

OFFICE OF ADMINISTRATIVE HEARINGS

*Hailey Miles*

Hailey Miles  
Legal Assistant 3

