

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

WSGC

In the matter of:

The Library Tavern,

Respondent/Licensee.

Docket No. 06-2019-GMB-00093

INITIAL ORDER

Agency: Washington State Gambling Commission
Program: License Fees & Reports
Agency No. CR 2019-00993

JUL 22 2019

RECORDS

1. ISSUES

- 1.1. Did The Library Tavern fail to timely submit quarterly license reports and quarterly license fees within thirty days following the end of first quarter, 2019, ending March 31, 2019, or during the additional thirty-day late filing and payment period, in violation of WAC 230-05-132(1)?
- 1.2. Is the Commission authorized to suspend The Library Tavern's license pursuant to RCW 9.46.075(1), WAC 230-03-085(1) and (5), and WAC 230-05-132(4).
- 1.3. If so, what costs, fees and/or penalties are owed?

2. ORDER SUMMARY

- 2.1. The Washington State Gambling Commission's action is AFFIRMED.
- 2.2. The Library Tavern failed to submit quarterly license reports and fees due on or before May 30, 2019, and is subject to sanctions, including suspension, under WAC 230-05-132(1)
- 2.3. The Library Tavern, License No. 05-21004, remains suspended until it submits outstanding quarterly licensing report and paid its quarterly licensing fees, including any additional costs associated with the collection of this fee.

3. HEARING

- 3.1. Hearing Date: July 8, 2019
- 3.2. Administrative Law Judge: Jane Cantor Shefler
- 3.3. Licensee: The Library Tavern
- 3.4. Agency: Washington State Gambling Commission
- 3.4.1. Representative: Kellen Wright, Assistant Attorney General

- 3.4.2. Observers: Keith Wittmers, Special Agent
Mark Richart, Special Agent
- 3.5. Exhibits: Exhibits 1 through 3 were admitted.
- 3.6. Other: This hearing was conducted as a brief adjudicative proceeding under RCW 34.05.485 and WAC 230-17-150(5).

4. FINDINGS OF FACT

I find the following facts are undisputed:

Jurisdiction

- 4.1. The Washington State Gambling Commission ("the Commission") brought administrative charges, alleging The Library Tavern, holder of gambling license 05-21004, failed to timely submit quarterly license fees and quarterly license reports within thirty days following the end of the first quarter of 2019, or within the additional thirty-day late filing and payment period.
- 4.2. The Commission suspended Licensee's gambling license and served a Notice of Administrative Charges dated June 11, 2019.
- 4.3. The Commission referred the matter to the Office of Administrative Hearings to assign an administrative law judge to conduct a Brief Adjudicative Proceeding as provided under Washington Administrative Code 230-17-150(5).
- 4.4. The Commission served notice of the July 8, 2019 brief adjudicative proceeding on June 11, 2019.

Failure to submit quarterly license reports and license fees

- 4.5. The Library Tavern is located in Pasco, and is solely owned by Aaron Peter.
- 4.6. During the first quarter of 2019, January 1 to March 31, 2019 ("Q1/19"), The Library Tavern was licensed to operate Punch Boards/Pull-Tabs under license 05-21004. That license expired on June 30, 2019.
- 4.7. The Library Tavern failed to timely submit its quarterly license fees and quarterly license reports within thirty days following the end of Q1/19. The reports and fees were due no later than April 30, 2019.
- 4.8. The Library Tavern did not submit its quarterly license fee and quarterly license report during the additional thirty-day late filing and payment period following the end of the quarter.

- 4.9. The Library Tavern submitted annual fees and reports previously. Despite several notifications to the Licensee by the Commission, as well as direct communications with Mr. Peters, The Library Tavern did not submit the quarterly reports or fees, if due, for Q1/19, as of June 8, 2019.

5. CONCLUSIONS OF LAW

Based upon the facts above, I make the following conclusions:

Jurisdiction

- 5.1. I have jurisdiction over the persons and subject matter of this case under chapter 34.05 Revised Code of Washington ("RCW"), chapter 9.46 RCW and Washington Administrative Code ("WAC") 230-17-151(e).

Violations charged

- 5.2. Beginning July 1, 2018, all organizations licensed by the Commission must submit activity reports quarterly, regardless of whether they previously submitted reports annually, quarterly or semi-annually, and regardless of when their permit or license year ends. WAC 230-05-102.
- 5.3. The Library Tavern is an organization licensed by the Commission and subject to reporting requirements and fees.
- 5.4. The Library Tavern must report quarterly under applicable WAC 230-05-102. For the period of January 1 through March 31, activity reports and quarterly license fees must be received by the Commission no later than April 30. WAC 230-05-102; WAC 230-05-124. Reports must be submitted for any licensed period, even if no gambling activity took place. WAC 230-05-124(6). Quarterly license fees must also be submitted on the same schedule, with the report, if due. 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. Under WAC 230-05-132(1), the Commission found The Library Tavern violated the requirements of chapter 230-05 WAC by failing to timely submit quarterly license fees and quarterly license reports. There is no factual dispute in this matter. The Library Tavern was required to submit quarterly license reports and quarterly license fees if due. The deadline for submitting license reports and fees for Q1/19 was April 30, 2019. All of the evidence establishes that The Library Tavern failed to submit quarterly license reports and quarterly license fees when due on April 30, 2019, or during the thirty-day late filing and payment period. The Library Tavern

violated the requirement to submit quarterly license reports and fees if due. The Commission's finding of responsibility for the violation must be affirmed.

Suspension and/or penalty

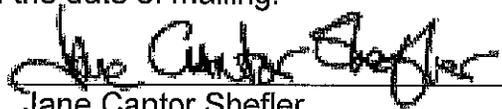
- 5.7. RCW 9.46.075(1) authorizes suspension of any license or permit issued by the Commission because of violation of gambling law or regulations.
- 5.8. WAC 230-03-085(5) provides for denial, suspension, or revocation, of licensure when the licensed organization has failed to pay a quarterly license fee or submitted a quarterly license report.
- 5.9. At hearing, the Commission argued that The Library Tavern's license should be revoked as the suspension penalty is essentially moot because the license expired as of June 30, 2019. Pursuant to RCW 9.46.140(4), administrative law judges may conduct hearings concerning the suspension, revocation, or denial of licenses. However, this tribunal does not have the authority or discretion to order the revocation of the license in this proceeding. Here, the Notice of Administrative Charges notifies the Licensee of the suspension of its license, not the revocation, and thus, revocation cannot be considered in this proceeding. See, WAC 230-17-005; WAC 230-17-151.
- 5.10. The Commission properly exercised its discretion to suspend The Library Tavern's gambling license under RCW 9.46.075 and WAC 230-03-085

6. INITIAL ORDER

IT IS HEREBY ORDERED THAT:

- 6.1. The Washington State Gambling Commission's action is AFFIRMED.
- 6.2. The Library Tavern failed to submit quarterly license reports and fees due on or before April 30, 2019, and is subject to sanctions, including suspension, under WAC 230-05-132(1)
- 6.3. The Library Tavern, License No. 05-21004, remains suspended until it submits outstanding quarterly licensing report and pays its quarterly licensing fees, including any additional costs associated with the collection of this fee.

Issued from Tacoma, Washington on the date of mailing.


Jane Cantor Shefler
Administrative Law Judge
Office of Administrative Hearings

APPEAL RIGHTS

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).

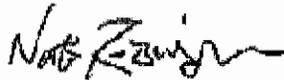
CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 06-2019-GMB-00093

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

<p>The Library Tavern 1134 Henry St Pasco, WA 99354</p> <p>Respondent/Licensee</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>Kellen Wright & Chad Standifer, AAGs Office of the Attorney General MS: 40100 PO Box 40100 Olympia, WA 98504</p> <p>Agency Representatives</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: kellen.wright@atg.wa.gov chad.standifer@atg.wa.gov</p>
<p>Ashlie Laydon Washington State Gambling Commission MS: 42400 PO Box 42400 Olympia, WA 98504</p> <p>Agency Contact</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: ashlie.laydon@wsgc.wa.gov</p>

Date: Friday, July 19, 2019

OFFICE OF ADMINISTRATIVE HEARINGS



Nathan Robinson
Legal Assistant 3