

WSGC
OCT 04 2019
RECORDS

WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS

In the matter of:

Seagate Restaurant & Lounge,

Appellant.

License No. 05-20019

Docket No. 09-2019-GMB-00115

INITIAL ORDER

Agency: Gambling Commission
Program: License Fees & Reports
Agency No. CR 2019-01523

1. ISSUES

- 1.1. Issue No. 1. Based on the Washington State Gambling Commission's 'Notice of Administrative Charges', dated September 13, 2019, whether the Appellant/Licensee, Seagate Restaurant & Lounge, failed to timely submit the quarterly license fee and quarterly license report which was due on July 30, 2019, in violation of Washington Administrative Code (WAC) 230-05-124 and WAC 230-05-132?
- 1.2. Issue No. 2. If so, whether the Gambling Commission's suspension of the Seagate Restaurant & Lounge's gambling license, under Revised Code of Washington (RCW) 9.46.075(1) and WAC 230-03-085(1) & (5) should be affirmed?

2. ORDER SUMMARY

- 2.1. Issue No. 1. **AFFIRMED.** The Appellant/Licensee, Seagate Restaurant & Lounge, failed to timely submit the quarterly license fee and quarterly license report which was due July 30, 2019, in violation of WAC 230-05-124 and WAC 230-05-132(1). The Washington State Gambling Commission's 'Notice of Administrative Charges' is affirmed.
- 2.2. Issue No. 2. **AFFIRMED.** The Gambling Commission's suspension of the Appellant/Licensee, Seagate Restaurant & Lounge's Gambling License No. 05-20019 is affirmed.

3. HEARING

- 3.1. Hearing Date: September 27, 2019
- 3.2. Administrative Law Judge: Charles F. Bryant
- 3.3. Appellant: Seagate Restaurant & Lounge

- 3.3.1. Representative: No one appeared on behalf of the Appellant.
- 3.4. Agency: Washington State Gambling Commission
- 3.4.1. Representative: Kellen Wright, Assistant Attorney General
- 3.4.2. Witnesses: The Gambling Commission did not call any witnesses.
- 3.5. Exhibits: Gambling Commission's Exhibits 1 through 8 were admitted. The Appellant did not submit any exhibits.
- 3.6. Other: The hearing was conducted as a brief adjudicative proceeding under RCW 34.05.485 and WAC 230-17-150 through 155.

4. FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

Jurisdiction

- 4.1. On September 13, 2019, the Gambling Commission issued and served a 'Notice of Administrative Charges' (CR 2019-01523) alleging that Seagate Restaurant & Lounge (License No. 05-20019) failed to timely submit the quarterly license fee and quarterly license report for the second quarter of 2019, which were due no later than July 30, 2019. *Exhibit ('Ex.')* 1.
- 4.2. The 'Notice of Administrative Charges' (CR 2019-01523) also alleged that Seagate Restaurant & Lounge (License No. 05-20019) also failed to submit the late quarterly license fee and late quarterly license report for the second quarter of 2019, which were due no later than August 30, 2019. *Exhibit ('Ex.')* 1.
- 4.3. 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 on the matter, as provided by WAC 230-17-150(5).
- 4.4. On September 16, 2019, the Gambling Commission served notice on the Appellant regarding the Brief Adjudicative Proceeding hearing, scheduled for September 27, 2019. *Ex. 1*
- 4.5. The Appellant did not appear for the hearing. *Hearing Record.*

Failure to submit quarterly license fee and report

- 4.6. The Appellant/Licensee, Seagate Restaurant & Lounge, located in Pacific Beach, Washington, has been licensed to operate Punch Boards/Pull-Tabs since 2004. *Ex. 2; Page ('Pg.')* 3.
- 4.7. The Appellant's license expires on September 30, 2019. It has no previous material administrative history. *Ex. 2; Pg. 3.*
- 4.8. From June 30, 2019 to August 2, 2019, the Gambling Commission sent three emails and one letter to the Appellant regarding the need to file a quarterly license fee and quarterly license report for the second quarter of 2019. *Ex. 5-8.*
- 4.9. The Seagate Restaurant & Lounge (License No. 05-20019) failed to timely submit the quarterly license fee and quarterly license report for the second quarter of 2019, which were due no later than July 30, 2019. *Exhibit ('Ex.')* 1.
- 4.10. The Seagate Restaurant & Lounge (License No. 05-20019) also failed to submit the late quarterly license fee and late quarterly license report for the second quarter of 2019, which were due no later than August 30, 2019. *Ex. 1.*
- 4.11. As of August 30, 2019, the Appellant still had not filed a quarterly license fee and quarterly license report for the second quarter of 2019. *Ex. 2; Pg. 4.*
- 4.12. On September 13, 2019, based on the Appellant's failure to submit a license fee and report for the second quarter of 2019, the Gambling Commission issued a 'Notice of Administrative Charges' against the Appellant. *Ex. 1.*

5. CONCLUSIONS OF LAW:

- 5.1 Based upon the facts above, the undersigned administrative law judge makes the following conclusions of law:

Jurisdiction

- 5.2 The undersigned administrative law judge 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

- 5.3. All organizations licensed by the Washington State Gambling Commission must submit activity reports quarterly, regardless of whether they previously submitted reports annually, quarterly or semi-annually and whether their permit or license year ends. WAC 230-05-102(1).

- 5.4. Reports must be submitted for any licensed period, even if no gambling activity occurred. WAC 230-05-124(6).
- 5.5. Quarterly license fees must be submitted in the format required by the Gambling Commission, along with the quarterly report, when due. WAC 230-05-124(3).
- 5.6. The second quarterly report required to be filed in 2019 covers the period from April 1, 2019, through June 30, 2019, and must be received by the Gambling Commission no later than July 30, 2019. WAC 230-05-102; WAC 230-05-124.
- 5.7. 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).
- 5.8. The Appellant/Licensee, Seagate Restaurant and Lounge, is an organization licensed by the Gambling Commission and subject to reporting requirements and fees of WAC 230-05. WAC 230-05-102(1).
- 5.9. Seagate Restaurant and Lounge was required to submit a quarterly license fee and quarterly license report for the fourth quarter of 2019. The deadline for submitting license reports and fees for the second quarter of 2019 was July 30, 2019. The Appellant failed to submit a quarterly license fee and quarterly license report for the period at issue. The appellant also failed to submit a late quarterly license fee and a late quarterly license report for the period at issue by August 30, 2019.
- 5.10. Therefore, Seagate Restaurant and Lounge, by failing to timely submit a quarterly license fee and report for the second quarter of 2019 violated WAC 230-05-124 and WAC 230-05-132(1). Because the Seagate Restaurant and Lounge committed these violations, the Washington State Gambling Commission's 'Notice of Administrative Charges' was correct, and should be **affirmed**.

Suspension and/or penalty

- 5.11. The Gambling Commission is authorized to suspend any license or permit issued by the Commission because of violation of gambling law or regulations. RCW 9.46.075(1).
- 5.12. The Gambling Commission may suspend a gambling license when the licensed organization has failed to pay a quarterly license fee and/or failed to submit a quarterly license report. WAC 230-03-085(5).

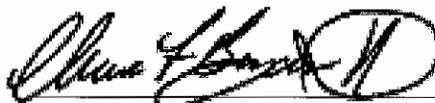
- 5.13. A suspended licensee is responsible for any late fees and additional costs associated with collection of the fees and costs, before the suspension is lifted or a new license is approved. WAC 230-03-085(5).
- 5.14. Under WAC 230-03-085, the Gambling Commission may deny, suspend or revoke any license or permit when the licensee "Has failed to pay a quarterly license fee or submit a quarterly license report." As discussed above, the appellant failed to pay a quarterly license fee and failed to submit a quarterly license report. Thus, the Gambling Commission properly exercised its discretion to suspend Seagate Restaurant and Lounge's gambling license under RCW 9.46.075 and WAC 230-03-085. Therefore, the Gambling Commission's suspension of Seagate Restaurant and Lounge's gambling license, No. 05-20019 should be **affirmed**.

6. INITIAL ORDER:

IT IS HEREBY ORDERED THAT:

- 6.1. **AFFIRMED.** The Appellant/Licensee, Seagate Restaurant and Lounge, failed to timely submit the quarterly license fee and report for the second quarter of 2019 in violation of WAC 230-05-124 and WAC 230-05-132(1). The Washington State Gambling Commission's 'Notice of Administrative Charges' is **affirmed**.
- 6.2. **AFFIRMED.** The Commission properly exercised its authority to suspend Seagate Restaurant and Lounge's gambling license under RCW 9.46.075 and WAC 230-03-085. The Gambling Commission's suspension of Seagate Restaurant and Lounge's Gambling License No. 05-20019 is **affirmed**.

Issued from Tacoma, Washington on the date of mailing.



Charles F. Bryant
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).

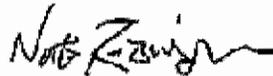
CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 09-2019-GMB-00115

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

Seagate Restaurant & Lounge PO Box 106 Pacific Beach, WA 98571 <i>Appellant</i>	<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
Kellen Wright & Chad C. Standifer, AAGs Office of the Attorney General MS: 40100 PO Box 40100 Olympia, WA 98504 <i>Agency Representatives</i>	<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:
Cheri Jackson Washington State Gambling Commission MS: 42400 PO Box 42400 Olympia, WA 98504 <i>Agency Contact</i>	<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 <i>Agency Contact</i>	<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: Thursday, October 03, 2019

OFFICE OF ADMINISTRATIVE HEARINGS



Nathan Robinson
 Legal Assistant 3

