

STATE OF WASHINGTON  
GAMBLING COMMISSION

In the Matter of the Suspension of the License to )  
Conduct Gambling Activities of: )  
 )  
Glory R. MacKenna )  
Wenatchee, Washington, )  
 )  
Licensee. )

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NO. CR 2013-01631

**NOTICE OF ADMINISTRATIVE  
CHARGES AND OPPORTUNITY FOR  
AN ADJUDICATIVE PROCEEDING**

I.

The Washington State Gambling Commission issued Glory R. MacKenna the following license: Number 68-26651, authorizing Card Room Employee activity with Buzz Inn Steakhouse in East Wenatchee. The license expires on June 18, 2014, and was issued subject to Ms. MacKenna's compliance with state gambling laws and rules.

II.

David Trujillo, Director of the Washington State Gambling Commission, charges the licensee with the following violations of Chapter 9.46 RCW, and WAC Title 230.

**SUMMARY:**

Glory R. MacKenna was issued a Notice of Violation and Settlement (NOVAS)<sup>1</sup> for failing to accurately report tips. Ms. MacKenna failed to timely pay the NOVAS.

**FACTS:**

1) In March 2013, the Gambling Commission began an emphasis inspection program to address concerns with inaccurate tip reporting at house-banked card rooms. In March, an agency letter was delivered to Alycia Williams, Buzz Inn accounting manager, with instructions to forward the information regarding card room tip reporting requirements to their card room employees. This letter, among other things, references WAC 230-15-475, which specifically states employees must accurately report all tips to their employer as described in the licensee's internal controls. Under the Buzz Inn's internal controls, employees must enter tips earned each day as they clock out. Employees were also given notice that the law requires that employee's report 100% of their tips. Glory MacKenna received and signed the notice.

2) On June 17, 2013, a Washington State Gambling Commission Special Agent (agent) performed a review to determine the level of tip reporting accuracy for Buzz Inn card room employees. Ms.

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<sup>1</sup> NOVAS- Notice of Violation and Settlement identifies the violation and gives the licensee the opportunity to pay a fine to settle the matter.

Williams provided a copy of the June 14<sup>th</sup> and 15<sup>th</sup> labor report.<sup>2</sup> The agent met with Dennis Kennedy, surveillance manager, and asked him to locate the video files for gaming day June 15<sup>th</sup>. Using surveillance recordings, Mr. Kennedy and the agent were able to identify the employees and view the tip boxes being emptied out on the cashiers cage counter and the chips exchanged for cash.

3) Mr. Kennedy provided copies of video files showing Glory MacKenna cashing out on two separate occasions for gaming day<sup>3</sup> June 14, 2013. Based on the review, it appears the cashier emptied and stacked approximately \$555 in chips. However, it appeared the cashier paid MacKenna \$559. On June 15, 2013, Ms. MacKenna cashed in her tips a second time. This time Ms. MacKenna had \$17 in chips, which the cashier exchanged for \$17. Ms. MacKenna received approximately \$576 in tip income for gaming day June 14, 2013. The labor report indicated Ms. MacKenna reported \$125 in tip income for gaming day June 14, 2013. Ms. MacKenna under-reported her tips by approximately \$451.

4) On July 5, 2013, the agent met with Ms. MacKenna at the Buzz Inn Casino. Ms. MacKenna was very irritated and angry when the agent told her the review showed she materially under-reported her tips. She said she reports all tips at the end of the year. The agent told her Buzz Inn procedures require card room employees to report tips at the end of each day. She disagreed and said she reports all of her tips at the end of the year. The agent later spoke with Ms. Williams, who was unaware of any reports at the end of the year that showed additional employee tip income.

5) The agent explained to Ms. MacKenna that he was citing gambling violations for not accurately reporting tips to her employer. The agent provided a copy of WAC 230-03-085 and WAC 230-15-475.<sup>4</sup> Ms. MacKenna argued that she was following IRS requirements and didn't believe these rules applied.

6) After explaining the NOVAS and debating the cited violations, the agent asked her to sign the NOVAS. Ms. MacKenna spent time reading the NOVAS and was upset that the agent hadn't explained RCW 9.46.075, which is printed on all NOVAS citations. She then wanted a copy of the RCW, which the agent did not have at the time. The agent told her that if she did not sign the NOVAS, he would document it in his report.

7) Ms. MacKenna abruptly stood up and walked out of the office. She did not sign or take the yellow copy of the NOVAS. The agent later had Ms. Williams print off a copy of the RCW 9.46.075 and stapled it to Ms. MacKenna's yellow copy of the NOVAS. The agent asked Ms. Williams to give the copy to Ms. MacKenna. Ms. Williams later verified the NOVAS was left in the cashier cage for Ms. MacKenna to pick up. Ms. Williams believes Ms. MacKenna received the NOVAS because it was no longer in the cage.

8) On August 6, 2013, the agent called Ms. MacKenna and left a voicemail telling her the \$200

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<sup>2</sup> Buzz Inn created a system where the employees enter in the time they work, tips earned, etc. into a computer. The labor report summarizes information by date.

<sup>3</sup> The "gaming day" refers to the operation from the opening of the casino to the closing of the casino. A gaming day often overlaps two calendar days.

<sup>4</sup> WAC 230-03-085 and WAC 230-15-475 are cited in the Violations section of this document.

payment had not been received and needed to be in by August 15, 2013, or the agent would go forward with a statement of charges against her license.

9) On August 16, 2013, Ms. MacKenna called and asked if the Buzz Inn could pay her fine. The agent told her she missed the August 15<sup>th</sup> deadline but if the fine was mailed in that day, it should be received by the following Monday, and the violation would be settled.

10) On August 22, 2013 the agent checked with the Commission's Business Operations Division and verified Ms. MacKenna's payment had not been received.

11) On August 28, 2013, Buzz Inn Steakhouse paid the \$200 NOVAS that was issued to Ms. MacKenna.

12) On October 17, 2013, Commission's Business Operations Division mailed a check to Buzz Inn Steakhouse to refund Ms. MacKenna's NOVAS payment as Ms. MacKenna never signed the NOVAS agreeing to settlement.

#### **VIOLATIONS:**

##### **1) RCW 9.46.075 Denial, suspension, or revocation of license, 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 certified employee, or any person with any interest therein:

(The following subsection applies.)

(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.

##### **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.

(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; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e) Associations.

**3) WAC 230-15-425 Internal controls**

(The following subsection applies.)

(2) Licensed card room employees must follow the internal control procedures for their individual functions.

**4) WAC 230-15-475 Tips from players and patrons to card room employees**

(The following subsection applies.)

(6) Employees must...

(d) accurately report all tips to their employer as described in the licensee's internal controls.

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

(The following subsection applies.)

(1) 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.

Glory R. MacKenna failed to comply with internal control procedures by under-reporting her tips by approximately \$451 on June 14, 2013, in violation of WAC 230-15-425 and WAC 230-15-475. As a result, she has demonstrated willful disregard for complying with Commission rules. Ms. MacKenna has failed to establish by clear and convincing evidence, as required by RCW 9.46.153(1), that she is qualified to be licensed. In addition, failure to comply with internal controls and accurately report tips establishes that 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 based on her activities. As a result, there are grounds to suspend Glory MacKenna's license based on RCW 9.46.075(1), and WAC 230-03-085(1), (3) and (8).

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III.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

The licensee will have the opportunity to have a hearing on the alleged violations. In order to have a hearing, the enclosed REQUEST FOR HEARING must be completed in full by the licensee or representative and returned to the Gambling Commission within **23 days** from the date of the mailing of this notice.

Based on RCW 34.05.440, FAILURE TO RETURN THIS DOCUMENT WILL RESULT IN THE ENTRY OF A DEFAULT ORDER FOR A 30-DAY SUSPENSION YOUR LICENSE.

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF THURSTON )

David Trujillo being first duly sworn on oath, deposes and says: He has read this Notice of Administrative Charges and Opportunity for An Adjudicative Proceeding, knows the contents, and believes the same to be true, and that he is the duly appointed and qualified Director of the Washington State Gambling Commission and in that capacity has executed these Charges.



DAVID TRUJILLO, DIRECTOR

SUBSCRIBED AND SWORN TO before me  
this 24 day of October, 2013.

  
NOTARY PUBLIC in and for the State of

Washington residing at Thurston County  
My Commission expires on December 2, 2015

STATE OF WASHINGTON )  
 )  
COUNTY OF THURSTON )

I certify I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy, property addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 24 day of October, 2013

