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COMM & LEGAL DIVISION GAMBLING COMMISSION

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GAMBLING COMMISSION
COMM & LEGAL DIVISION

In the Matter of the Suspension of the License)
to Conduct Gambling Activities of:)
Bayou Bar & Grill,)
Licensee.)
_____)

NO. CR 2009-00303

SETTLEMENT ORDER

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OAH - Olympia

This Settlement Order is entered into between the Washington State Gambling Commission and Bayou Bar & Grill. H. Bruce Marvin, Assistant Attorney General, and Melinda Froud, Staff Attorney represent the Gambling Commission. The licensee is represented by Dennis Bennett, owner.

I.

Bayou Bar & Grill, 4511 N Barker, Spokane Valley, organization number 00-18773, has been issued the following license by the Washington State Gambling Commission:

Number 05-19344, Authorizing Class "F" Punchboard/Pull-Tab Activity.

This license, which expires on December 31, 2009, was issued subject to the licensee's compliance with state gambling laws and Commission rules.

II.

In the above-entitled case, the Director issued a Notice of Administrative Charges on March 6, 2009, seeking the suspension of Bayou Bar & Grill's gambling license. On March 25, 2009, Commission staff received the licensee's request for a hearing.

The following is a summary of the facts alleged, and the violations charged in the Notice of Administrative Charges:

- The licensee failed to timely submit its punchboard/pull-tab activity report for the third and fourth quarters of 2008. The activity report was due January 30, 2009. However, the activity report was not received until February 4, 2009. This conduct violated WAC 230-14-284.
- Previously the licensee failed to submit its punchboard/pull-tab activity reports for the first and second quarters of 2007, and third and fourth quarters of 2007. A Commission Special Agent issued a Notice of Violation and Settlement (NOVAS¹) to the licensee for filing these activity reports late.

¹ The NOVAS identifies the violation and gives the recipient the opportunity to pay a fine to settle the matter.

- The licensee's failure to timely submit its activity report demonstrates the licensee's willful disregard for complying with state administrative rules. Grounds exist for the suspension of Bayou Bar & Grill's license to conduct gambling activities, based on RCW 9.46.075(1) and WAC 230-03-085(1) and (3).

RCW 9.46.075(1)

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 licensee, or any person with any interest therein:

(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.

WAC 230-03-085(1) and (3), Denying, suspending, or revoking an application, license or permit.

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

- (1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075; or
- (3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level.

WAC 230-14-284, Activity for punchboard and pull-tab licensees.

Punchboards and pull-tab licensees must submit an activity report to the Commission. Licensees must complete the report in the format we require and must:

- (1) Cover the periods:
 - (a) January 1 through June 30; and
 - (b) July 1 through December 31; and
- (2) Be received at our administrative office or postmarked no later than thirty days following the end of the reporting period; and
- (3) Be signed by the licensee's highest-ranking executive officer or a designee. If someone other than the punch board and pull-tab licensee or its employee prepares the report, then it must provide the preparer's name and business telephone number; and
- (4) Be filed even if they do not renew their license. They must file a report for the period between the previous report filed and the expiration date of the license.

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III.

Bayou Bar & Grill has submitted its delinquent Activity Report. The licensee waives its right to a hearing, and the parties agree to settle this matter under the following terms:

1) The licensee's gambling license is hereby **suspended for a period of fifteen (15) days**, provided that:

a) **Three (3) days of the suspension** shall not be currently served, but **shall be deferred for a period of two years** from the date of entry of this Settlement Order, subject to the following:

- The licensee must not violate the terms of this Settlement Order, or Washington's gambling statutes and/or regulations during the two (2) year term, including failing to submit future activity reports when due.
- If the licensee violates the terms of this order, gambling statutes, or regulations, and if the violation is the type that warrants the filing of administrative or criminal charges, then the Director may impose the three (3) day suspension of the current gambling license and any subsequently acquired gambling license(s).

b) The parties agree that the Director of the Washington State Gambling Commission, pursuant to this settlement, has sole discretion to determine whether the licensee has violated any term of this settlement.

c) In the event the Director determines that a violation of this section or any other type of violation has occurred, he may suspend the license(s) issued to Bayou Bar & Grill by mailing or delivering a Notice of Administrative Charges to the licensee. The suspension shall be in addition to the consequences of the new violation. The licensee shall be given the opportunity to have an Adjudicative Proceeding, which includes a hearing on the alleged violations.

d) Pursuant to RCW 9.46.077, the licensee has agreed to **vacate the remaining twelve (12) days** of this suspension by paying a fine in the amount of one thousand dollars (\$1,000). The licensee has also agreed to reimburse the Commission for its investigative and administrative costs in the amount three hundred dollars (\$300) for total **finest and costs of one thousand, three hundred dollars (\$1,300). Payments are due in two installments.**

- **The first installment of \$650 is due by May 15, 2009.**
- **The second installment of \$650 is due by June 12, 2009.**

Payments must be **mailed** to Commission Headquarters at the following address:

Washington State Gambling Commission
Attention: Communications and Legal Division – Fines
P.O. Box 42400
Olympia, WA 98504-2400

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or delivered (in person or via private courier) to the following address:

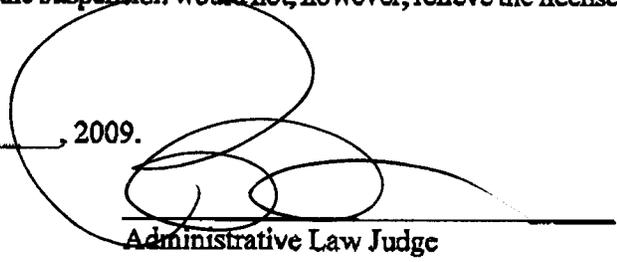
Washington State Gambling Commission
4565 7th Avenue SE; Fourth Floor
Attention: Communications and Legal Division – Fines
Lacey, WA 98503

e) The signed order and first (1st) payment must be received by Commission staff on or before May 15, 2009.

2) The licensee agrees to submit its activity reports within 30 days following the end of the reporting period. Failure to do so may result in the filing of administrative charges for the suspension or revocation of Bayou Bar & Grill's license to conduct gambling activities

3) If the licensee makes its payments, as set forth above, this matter will be deemed closed. However, if the licensee fails to make each payment on time, the Director may impose a two (2) day suspension for each late payment. Serving the suspension would not, however, relieve the licensee of its obligation to pay its fine.

DATED this 3rd day of June, 2009.



Administrative Law Judge

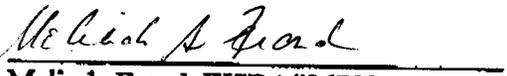
APPROVED FOR ENTRY:

ACCEPTED AS TO FORM:

By the signature below, the licensee acknowledges reading the Settlement Order, and understands the terms and conditions.


Dennis Bennett, Owner (DATE)
Bayou Bar & Grill


H. Bruce Marvin, WSBA# 25152
Assistant Attorney General, Representing
the Washington State Gambling
Commission


Melinda Froud, WSBA#26792
Lead Staff Attorney
Washington State Gambling Commission

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