

STATE OF WASHINGTON  
GAMBLING COMMISSION

In the Matter of the Suspension or Revocation )  
of the License(s) to )  
Conduct Gambling Activities of: )  
New Grove, )  
6504 Evergreen Way )  
Everett, Washington, )  
Licensee. )  
\_\_\_\_\_ )

No. CR 2009-00999

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

I.

The Washington State Gambling Commission issued the New Grove, organization number 00-19249, the following license(s):

Number 65-06975, Authorizing Class "F7" House-Banked Card Room Activity; and  
Number 05-19595, Authorizing Class "D" Punchboard/Pull-Tab Activity.

The licenses expire on March 31, 2010, and were issued subject to the licensee's compliance with state gambling laws and regulations.

II.

**SUMMARY:**

Rick Day, Director, of the Washington State Gambling Commission, charges the licensee with the following violation(s) of the Washington State Gambling Act, 9.46 RCW, and WAC Title 230: The licensee has failed to provide Commission staff with revised purchase and sale documents that reflects a new price for the New Grove, the source of funds for the payments to date, or the loan documents from EMC or Bank of America. Grounds exist to suspend or revoke the license(s) under RCW 9.46.075, WAC 230-03-085, and RCW 9.46.153.

**FACTS:**

1) On January 12, 2009, the New Grove submitted a change of stock ownership form and a stock purchase agreement to Commission staff. According to the purchase agreement, the first transaction would be a 10 percent ownership change, where Huong Nguyen would purchase 100 percent of the shares from Dieu Nguyen for \$60,000 and assume the licensee's debt.

- 2) The agreement provided that once Commission staff approved this transaction, Huong Nguyen would acquire the additional 90 percent of the shares within 14 days. At that time, Dieu Nguyen would resign as the corporation's Officer, Chairman of the Board, Board Member, and the Registered Agent.
- 3) When Huong Nguyen completed the required Source of Funds Statement in January of 2009, he disclosed that he was borrowing \$70,000 from the Bank of America and a lender called EMC to purchase the New Grove.
- 4) On January 29, 2009, a Commission Customer Service Specialist wrote a letter to Dieu Nguyen, requesting copies of the check written for the stock purchase and a copy of bank statements for all accounts from which funds were used to purchase the stock.
- 5) On February 25, 2009, a Commission Special Agent (agent) wrote a letter to the New Grove, requesting cancelled checks, loan documents and bank statements for Huong Nguyen in connection with the stock purchase, as well as bank statements for the New Grove.
- 6) On March 23, 2009, the agent re-sent the letter to Huong Nguyen's home address, as the letter had been returned undeliverable.
- 7) On June 1, 2009, the agent received the requested bank statements for New Grove and Huong Nguyen.
- 8) On June 9, 2009, the agent received a copy of a \$15,000 temporary check to James Nguyen from Huong Nguyen on a temporary account. The agent also spoke to James (Dieu) Nguyen that day. Mr. Nguyen said he would provide the agent loan documents from EMC the next day and stated that Huong Nguyen would only be paying \$15,000 for the purchase instead of \$60,000.
- 9) On July 1, 2009, the agent received a faxed copy of a check for \$20,000 issued by Huong Nguyen. The fax cover sheet said this was a new check and stated, "We over look the sale agreement that causing the mistake." *[sic]*
- 10) Despite repeated requests, as of July 24, 2009, Commission staff had not received revised purchase and sale documents to reflect a different purchase price, the source of funds for the funds paid to date, or the loan documents from EMC or Bank of America.
- 11) The licensee has the following administrative history during the last five years:
  - Six operational violations (such as surveillance recordings, accepting checks with insufficient funds, etc.) resulting in warning letters or NOVAS.<sup>1</sup>
  - A 2007 Notice of Infraction for a record-keeping violation.

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<sup>1</sup> A Notice of Violation and Settlement (NOVAS) identifies the violation and gives the recipient the opportunity to pay a fine to settle the matter.

- Administrative charges in 2006 for employing an unlicensed individual to perform card room employee and service supplier duties. The licensee agreed to a 20-day suspension, with 13 days deferred for one year and seven days vacated by a fine of \$12,446.
- A 2009 NOVAS for conducting activity without a license.
- Five verbal warnings for other operational or record-keeping violations.

The licensee failed to provide documents to verify or conform with the revised purchase price, loan documents from EMC and Bank of America to Huong Nguyen relating to the \$15,000 and \$20,000 checks, and source of funds documentation for those checks, in violation of RCW 9.46.075(5), WAC 230-030-85(7), and RCW 9.46.153(4). As a result, there are grounds to suspend or revoke the license(s) under RCW 9.46.075, WAC 230-03-085, and RCW 9.46.153.

**RCW 9.46.075(1) Denying, suspending, or revoking an application, license**

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:

The following subsection(s) apply:

(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.

(5) Fails to produce any book, record, document or item required by law or Commission rule.

**WAC 230-03-085 Denying, suspending, or revoking an application, license**

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:

The following subsection(s) 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.

(7) Fails to provide us with any information required under Commission rules within the time required, or, if the rule establishes no time limit, within thirty days after receiving a written request from us.

(8) Fails to prove, by clear and convincing evidence, that it is qualified in accordance with the provisions of this chapter. RCW 9.46.153(1) provides that it shall be the affirmative responsibility of each 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.

**RCW 9.46.153 Applicants and licensees – Responsibilities and duties – Waiver of liability-  
Investigation statement as privileged**

The following subsection applies:

(4) All applicants, licensees, persons who are operators or directors thereof, and persons who otherwise have a substantial interest therein shall have the continuing duty to provide any assistance or information required by the Commission. If, upon issuance of a formal request to answer or produce information any licensee or officer or director thereof, or person with a substantial interest therein, refuses to comply, the license may be revoked by the Commission.

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 or discuss settlement options**, the enclosed request for hearing must be completed 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 REVOKING your licenses.

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF THURSTON )

Rick Day, being duly sworn on oath, says: That he has read this Notice of Administrative Charges and Opportunity for An Adjudicative Proceeding, knows the contents of it, believes it to be true, that he is the Director of the Washington State Gambling Commission, and in that capacity has executed said Notice.

*[Handwritten Signature: Rick Day]*  
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RICK DAY, DIRECTOR



SUBSCRIBED AND SWORN TO before me this 13th day of July, 2009.  
*[Handwritten Signature]*  
NOTARY PUBLIC in and for the State of  
Washington residing at Thurston County  
My Commission expires on July 12, 2011