

RECEIVED

MAR 31 2010

GAMBLING COMMISSION
COMM & LEGAL DIVISION

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension of the Licenses)
to Conduct Gambling Activities of:)
)
VFW 02100)
Everett, Washington,)
)
Licensee.)
_____)

RECEIVED

MAR 15 2010

GAMBLING COMMISSION
COMM & LEGAL DIVISION

NO. CR 2009-00689

SETTLEMENT ORDER RECEIVED

MAR 23 2010

HEADQUARTERS OFFICE OF
ADMINISTRATIVE HEARINGS

This Settlement Order is entered into between the Washington State Gambling Commission and VFW 02100 of Everett. H. Bruce Marvin, Assistant Attorney General, and Melinda Froud, Staff Attorney, represent the Commission. Robin Jorgensen, Quartermaster, represents the licensee.

I.

The Washington State Gambling Commission issued VFW 02100 organization number 00-00208, the following licenses:

- Number 05-00716, Authorizing Class "C" Punchboard/Pull-tab Activity; and
- Number 08-00173, Combination License.

The licenses expire on March 31, 2011, and were issued subject to the licensee's compliance with state gambling laws and regulations.

II.

In the above-entitled case, the Gambling Commission issued a Notice of Administrative Charges and Opportunity for an Adjudicative Hearing on February 16, 2010, seeking the suspension of VFW 02100's licenses to conduct gambling activities. On February 22, 2010, Commission staff received the licensee's request for a hearing.

The following facts and violations were alleged in the Notice of Administrative Charges:

- 1) The licensee did not have independent checks or accountability on gambling revenue collected. There was no system in place to verify gambling revenue collected by the bookkeeper or the Quartermaster (general manager). The licensee failed to maintain an independent management control structure that ensured gambling revenue was protected from misuse or embezzlement, in violation of WAC 230-07-060(2).
- 2) From January 2006 through July 2009, the licensee failed to timely and accurately deposit cash from pull-tab activity.
 - The licensee failed to deposit cash from pull-tab activity no later than two banking days after they removed the pull-tab series from play. Some deposits were not made until over a year after the pull-tabs were pulled from play.

- The amount of pull-tab revenue deposited was different from the amount recorded on the Monthly Income Summaries (MIS). The difference was a shortage totaling \$64,176.

As a result, gambling revenue was not accounted for, not used towards the licensee's stated purpose, and not protected from misuse or embezzlement, in violation of WAC 230-07-090(1).

3) From January 2006 through March 2009, the licensee failed to properly fill out the MIS. Several columns of the MIS failed to include totals and the summary failed to have enough detail to prove compliance with recordkeeping requirements in violation of WAC 230-14-285 and WAC 230-06-070.

4) From January 2007 through June 2009, the licensee filed inaccurate Quarterly Activity Reports (QAR). The licensee underreported \$127,782 in gross gambling receipts and under reported \$38,377 in prizes paid to players on the QARs in violation of WAC 230-14-284.

5) From 2004 through 2008, the licensee failed to make gambling tax payments to the City of Everett and failed to keep financial data that supported its tax reports in violation of WAC 230-06-070(4).

6) The licensee has the previous administrative history:

- In June 2006, the licensee received a warning letter for excessive pull-tab shortages and failure to keep accurate deposit records. The licensee failed to maintain an independent management control system that ensured gambling activities were closely supervised and all assets of the organization are protected from misuse.
- In June 2006, the licensee received a Notice of Violation and Settlement¹ (NOVAS) for not accurately completing gambling revenue records.
- In July 2007, the licensee received a NOVAS for failure to supervise pull-tab sales and failure to prevent pull-tab revenue loss. The licensee failed to maintain an independent management control system that ensured gambling activities were closely supervised and all assets of the organization are protected from misuse.

7) Based on the licensee's actions, grounds exist to suspend VFW 02100's licenses under RCW 9.46.075(1) and WAC 230-03-085(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 licensee, 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

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

any such person or over which he or she has substantial control.

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, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(The following subsection applies.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

WAC 230-14-285 Monthly income summary.

(1) Punch board and pull-tab licensees must prepare a detailed monthly income summary for punch board and pull-tab series removed from play in the format we require either manually or electronically.

WAC 230-06-070 Keep monthly record.

Every person or organization licensed to operate any gambling activity must maintain permanent monthly records of all financial transactions directly or indirectly related to gambling activities. The licensee must include all financial transactions in enough detail to prove compliance with recordkeeping requirements for the specific gambling activity.

(1) Every licensee must record for each licensed activity:

- (a) The gross gambling receipts; and
- (b) Full details on all expenses; and
- (c) The total cost of all prizes paid.

(2) Commercial stimulant licensees must also record:

- (a) Gross sales of food and drink for consumption on the business premises; and
- (b) Gross sales of food and drink for consumption off the business premises; and
- (c) Gross sales from all other business activities occurring on the business premises.

(3) Licensees must record each licensed activity separately and include all transactions occurring during the calendar month. Licensees must complete these records and have them available for audit or inspection by our agents or other law enforcement no later than thirty days following the end of each month.

(4) Licensees must include copies of all additional financial data which support tax reports to any governmental agency.

(5) Licensees must maintain each of these records for at least three years from the end of the fiscal year.

WAC 230-07-090 Keeping and depositing all gambling funds separate from other funds.

Charitable or nonprofit licensees must protect all funds generated from gambling activities and keep these funds separate from their general funds.

(The following subsection(s) apply.)

(1) Licensees must:

(f) Deposit all net gambling receipts which they are holding, pending pay out:

(iii) From punch board and pull-tabs, including cost recovery for merchandise prizes awarded, no later than two banking days after they remove the board or series from play.

WAC 230-07-060 Independent management structure required.

(1) Charitable or nonprofit organizations and their officers or board of directors have an affirmative responsibility to conduct gambling activities according to the legislative intent in chapter 9.46 RCW.

(2) Organizations must develop and maintain an independent management control system that ensures they:

(a) Create an operating environment that makes it possible to implement the policies of the officers or board of directors; and

(b) Supervise and operate gambling activities according to gambling laws and our rules; and

(c) Protect all assets of the organization from misuse or embezzlement; and

(d) Use gambling proceeds solely to advance the purposes of their organization.

WAC 230-14-284 Activity reports for punch board and pull-tab licensees.

Punch boards 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; and

(5) Unless they are also licensed for Class D or above bingo, charitable and nonprofit licensees must submit a semiannual activity report for punch boards and pull-tabs; and

(6) Class D or above bingo licensees with a punch board and pull-tab license must report punch board and pull-tab activity, on the combined quarterly report provided by the commission as explained in WAC 230-10-331.

III.

The licensee has worked with a Commission Special Agent to become compliant with gambling rules and laws. The licensee made significant changes in its accounting practices for gambling revenue and entered into a payment plan with the City of Everett for payment of delinquent taxes. Additionally, the licensee has new officers and made changes in personnel involved in gambling activities.

The licensee acknowledges that it has read the Notice of Administrative Charges and understands the facts contained in it. The licensee has waived its right to a hearing, based on the terms and conditions of this Settlement Order.

The licensee agrees to the following:

1) The licensee agrees that VFW 02100's licenses are hereby suspended for a period of **fifteen (15) days** provided that:

a) **Five (5) days of the suspension shall not be currently served, but shall be deferred for a period of one year** from the date of entry of this Settlement Order, subject to the following: The licensee agrees not to violate any of Washington's gambling statutes or regulations during the one (1) year term. If the licensee violates these 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 five-day suspension of the current gambling license(s) and any subsequently acquired gambling licenses.

b) The parties agree that the Director of the Washington State Gambling Commission, pursuant to this agreement, has discretion to determine whether the licensee has violated any term of this agreement. In the event the Director determines that a violation of this section has occurred, he may suspend the license(s) issued to the licensee, and any subsequently acquired licenses, for up to five days, by mailing or delivering a Notice of Order of Administrative Charges to the licensee. This suspension shall be in addition to any consequences of the new violation. The licensee shall be afforded the opportunity to have an Adjudicative Proceeding, which includes a hearing on the alleged violations.

2) Pursuant to RCW 9.46.077, the licensee has chosen to **vacate the remaining ten (10) days** of this suspension by paying a fine of three hundred twenty-seven dollars (\$327) which represents fifty percent of the licensee's net gambling receipts for ten days, based on information reported by the licensee on its activity reports and a portion of the administrative costs in the amount of three thousand eight hundred and seventeen dollars (\$3,817). **The total fines and costs equal four thousand, one hundred and forty four dollars (\$4,144).**

a) **The fine shall be paid in three installments over a three month period.**

i. The first installment of \$1,382 shall be due on March 31, 2010.

ii. The second installment of \$1,381 shall be due on April 30, 2010.

iii. The final installment of \$1,381 shall be due on May 28, 2010.

b) Payments shall be **mailed** to Commission Headquarters at the following address:

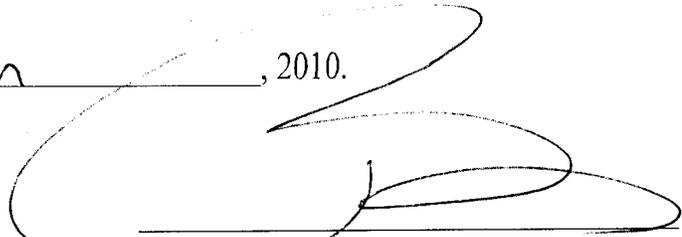
Washington State Gambling Commission
Attention: Communications and Legal Division – Fines
P.O. Box 42400
Olympia, WA 98504-2400

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

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

3) If the licensee makes its payments as agreed in Subsection III, paragraph 2, this matter will be deemed closed. However, if the licensee fails to timely make its payment, the Director may impose an additional **two (2)** day suspension for the late payment. Serving the suspension would not, however, relieve the licensee of its obligation to pay its fine.

DATED this 26th day of March, 2010.

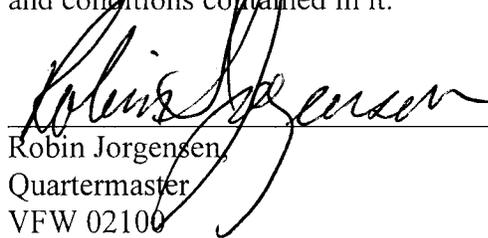


Administrative Law Judge

APPROVED FOR ENTRY:

APPROVED AS TO FORM:

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



Robin Jorgensen
Quartermaster
VFW 02100

3/13/2010
(Date)



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