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GAMBLING COMMISSION
COMM & LEGAL DEPT

STATE OF WASHINGTON
GAMBLING COMMISSION

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GAMBLING COMMISSION
COMM & LEGAL DIVISION

In the Matter of the Revocation of the)
License to Conduct Gambling Activities of:)
)
Horse Heaven Hills)
Prosser, Washington,)
)
Licensee.)
_____)

NO. CR 2010-00531

SETTLEMENT ORDER

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JUN 24 2010

HEADQUARTERS OFFICE OF
ADMINISTRATIVE HEARINGS

This Settlement Order is entered into between the Washington State Gambling Commission and Horse Heaven Hills. The Gambling Commission is represented by H. Bruce Marvin, Assistant Attorney General, and Brenda Bono, Staff Attorney. The licensee is represented by Brian Rogers, General Manager.

I.

The Washington State Gambling Commission issued Horse Heaven Hills, organization number 00-21981, the following license:

Number 53-21017; Authorizing Class "A" Amusement Games.

The license expires on October 28, 2010, and was issued subject to the licensee's compliance with state gambling laws and regulations.

II.

The Director issued a Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding to the licensee on May 12, 2010. On May 21, 2010, Commission staff received Horse heaven Hills' license, along with a statement that it does not want a hearing regarding the outstanding charges.

III.

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

- 1) On October 21, 2009, the Washington State Gambling Commission received a Commercial Amusement Game Class "A" application from Horse Heaven Hills. Commission staff issued the license on October 29, 2009.
- 2) On January 21, 2010, a Commission Special Agent (agent) was contacted by Commission licensing staff, informing the agent that the licensee may have been issued its license by mistake, and that the licensee did not meet the requirements for amusement games stated in RCW 9.46.0331. Specifically, the licensee does not meet the minimum square footage

requirements for a grocery or department store, or the requirements for a business whose primary activity is to provide food service on the premises.

- 3) The agent confirmed that the licensed property is 5,641 square feet, less than the 10,000 required for a licensed grocery or department store. The agent also confirmed that the licensee does not have a restaurant. Company profiles and county property listings describe the property as a truck stop.
- 4) Licensing staff contacted the licensee by phone, explained the mistake, and requested return of the license. The license was not returned. On April 6, 2010, licensing staff wrote a letter to the licensee requesting return of the license, with a deadline of April 16, 2010. The letter indicated that if the license was not returned, the file would be submitted for administrative charges.
- 5) As of May 7, 2010, the license had not been returned.

Grounds exist for the revocation of Horse Heaven Hills' license to conduct gambling activities, based on RCW 9.46.075(1) and (3), RCW 9.46.0331, and WAC 230-03-085(1), and (3).

RCW 9.46.075 Suspending a license or permit

The Commission may suspend 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 subsections 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; or

(3) Has obtained a license or permit by fraud, misrepresentation, concealment, or through inadvertence or mistake.

WAC 230-03-085 Suspending a license or permit

We may suspend any 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 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.

WAC 230-13-150 Amusement game locations

(1) Amusement game operators must obtain written permission to operate at any location from the person or organization owning the premises or sponsoring the event where the operator will hold the activity.

(2) Operators may only conduct commercial amusement games at:

(a) Locations set out in RCW 9.46.0331; and

(b) Family sports complexes.

(i) A "family sports complex" is a facility, at a permanent location, to which people go to play sports. A family sports complex must offer multiple sports activities, such as indoor soccer, outdoor soccer, lacrosse, baseball, Frisbee, and lawn bowling and the gross receipts must be primarily from these sports activities.

(ii) A family sports complex does not include a facility owned or operated by a school or school district; and

(c) Skating facilities; and

(d) Grocery or department stores. A "department or grocery store" means a business that offers the retail sale of a full line of clothing, accessories, and household goods, or a full line of dry grocery, canned goods, or nonfood items plus some perishable items, or a combination of these. A department or grocery store must have more than ten thousand square feet of retail and support space, not including the parking areas.

(3) Operators must conduct amusement games in conformance with local zoning, fire, health, and similar regulations.

RCW 9.46.0331 Amusement games authorized — Minimum rules.

The legislature hereby authorizes any person to conduct or operate amusement games when licensed and operated pursuant to the provisions of this chapter and rules and regulations adopted by the commission at such locations as the commission may authorize. The rules shall provide for at least the following:

(1) Persons other than bona fide charitable or bona fide nonprofit organizations shall conduct amusement games only after obtaining a special amusement game license from the commission.

(2) Amusement games may be conducted under such a license only as a part of, and upon the site of:

(a) Any agricultural fair as authorized under chapter 15.76 or 36.37 RCW; or

(b) A civic center of a county, city, or town; or

(c) A world's fair or similar exposition that is approved by the bureau of international expositions at Paris, France; or

(d) A community-wide civic festival held not more than once annually and sponsored or approved by the city, town, or county in which it is held; or

(e) A commercial exposition organized and sponsored by an organization or association representing the retail sales and service operators conducting business in a shopping center or other commercial area developed and operated for retail sales and service, but only upon a parking lot or similar area located in said shopping center or commercial area for a period of no more than seventeen consecutive days by any licensee during any calendar year; or

(f) An amusement park. An amusement park is a group of activities, at a permanent location, to which people go to be entertained through a combination of various mechanical or aquatic rides,

theatrical productions, motion picture, and/or slide show presentations with food and drink service. The amusement park must include at least five different mechanical, or aquatic rides, three additional activities, and the gross receipts must be primarily from these amusement activities; or

(g) Within a regional shopping center. A regional shopping center is a shopping center developed and operated for retail sales and service by retail sales and service operators and consisting of more than six hundred thousand gross square feet not including parking areas. Amusement games conducted as a part of, and upon the site of, a regional shopping center shall not be subject to the prohibition on revenue sharing set forth in RCW 9.46.120(2); or

(h) A location that possesses a valid license from the Washington state liquor control board and prohibits minors on their premises; or

(i) Movie theaters, bowling alleys, miniature golf course facilities, and amusement centers. For the purposes of this section an amusement center shall be defined as a permanent location whose primary source of income is from the operation of ten or more amusement devices; or

(j) Any business whose primary activity is to provide food service for on premises consumption and who offers family entertainment which includes at least three of the following activities: Amusement devices; theatrical productions; mechanical rides; motion pictures; and slide show presentations; or

(k) Other locations as the commission may authorize.

(3) No amusement games may be conducted in any location except in conformance with local zoning, fire, health, and similar regulations. In no event may the licensee conduct any amusement games at any of the locations set out in subsection (2) of this section without first having obtained the written permission to do so from the person or organization owning the premises or an authorized agent thereof, and from the persons sponsoring the fair, exhibition, commercial exhibition, or festival, or from the city or town operating the civic center, in connection with which the games are to be operated.

(4) In no event may a licensee conduct any amusement games at the location described in subsection (2)(g) of this section, without, at the location of such games, providing adult supervision during all hours the licensee is open for business at such location, prohibiting school-age minors from entry during school hours, maintaining full-time personnel whose responsibilities include maintaining security and daily machine maintenance, and providing for hours for the close of business at such location that are no later than 10:00 p.m. on Fridays and Saturdays and on all other days that are the same as those of the regional shopping center in which the licensee is located.

(5) In no event may a licensee conduct any amusement game at a location described in subsection (2)(i) or (j) of this section, without, at the location of such games, providing adult supervision during all hours the licensee is open for business at such location, prohibiting school-age minors from playing licensed amusement games during school hours, maintaining full-time personnel whose responsibilities include maintaining security and daily machine maintenance, and prohibiting minors from playing the amusement games after 10:00 p.m. on any day.

IV.

The licensee has waived its right to a hearing, based on the terms and conditions of this Settlement Order. Horse Heaven Hills returned its license on May 21, 2010. The licensee further agrees to the following terms:

1) Horse Heaven Hills will deliver this signed Order to the Gambling Commission's Communications and Legal Division by **June 30, 2010**, located at:

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

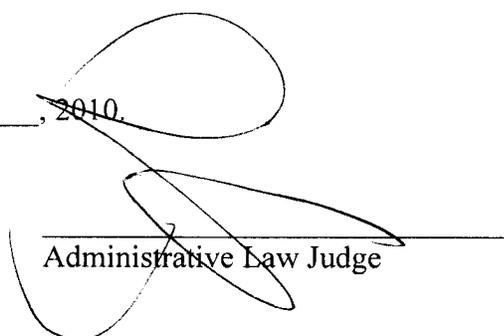
Or delivered (in person or via private courier) to the following address:

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

2) In the event Horse Heaven Hills reapplies for a gambling license, it will be subject to all the Commission's investigative procedures for processing an application for a gambling license. Furthermore, no promises or assurances have been made to the licensee that it will receive a license from the Commission should it reapply.

3) Horse Heaven Hills shall have no involvement, directly or indirectly, whether paid or unpaid, in the operation, ownership, or financing of any business in Washington State which is applying for, or holds, a gambling license or is involved with any gambling activity, including punchboard/pull-tab activity.

DATED this 25th day of June, 2010.



Administrative Law Judge

APPROVED FOR ENTRY:

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

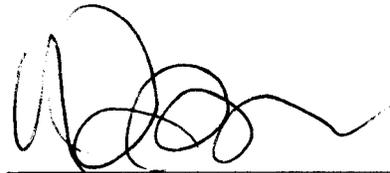
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Horse Heaven Hills, (Date)
Licensee



Brenda Beno, WSBA# 29956
Staff Attorney,
Washington State Gambling Commission

APPROVED AS TO FORM:



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