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STATE OF WASHINGTON  
GAMBLING COMMISSION

GAMBLING COMMISSION  
COMM & LEGAL DEPT

In the Matter of the Suspension or Revocation of )  
the Licenses to Conduct Gambling Activities of: )

NO. CR 2010-00336  
CR 2010-01076

15743 Ambaum, LLC.  
d/b/a Wizards Casino,  
Burien, Washington,

**SETTLEMENT ORDER**

Licensee.  
\_\_\_\_\_ )

This Settlement Order is entered into between the Washington State Gambling Commission and 15743 Ambaum, LLC., d/b/a Wizards Casino. The Gambling Commission is represented by H. Bruce Marvin, Assistant Attorney General, and Melinda Froud, Lead Staff Attorney. The licensee is represented by Dave Malone, of Miller, Malone, and Tellefson.

I.

The Washington State Gambling Commission issued 15743 Ambaum, LLC., d/b/a Wizards Casino (Wizards) the following licenses:

Number 67-00287, Authorizing Class "15" Housebanked Card Room Activity; and  
Number 05-20858, Authorizing Class "C" Punchboard/Pull-Tab Activity.

These licenses expire on December 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 July 29, 2010, and Amended Notice of Administrative Charges on October 1, 2010. On August 19, 2010, Commission staff received the licensee's request for a hearing.

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

**SUMMARY:**

The owners of Wizards:

- a) Engaged in an act, practice or course of operation that would operate as a fraud or deceit upon another person when they cashed checks from an employee totaling \$35,000, although they knew that the checks were not from the employee's bank account.

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- b) Failed to disclose or made a misrepresentation of information to a Commission Special Agent about fraudulent checks cashed at Wizards.
  - c) Caused card room employees to violate gambling rules, Wizards' own check cashing procedures, and internal controls.
  - d) Willfully disregarded gambling laws and regulations when, although they knew it was against Commission rules, the owners authorized and instructed card room employees to cash a third party check and cash checks from someone who is not the check owner.
  - e) Failed to report to the illegal or suspicious activity.
  - f) Failed to copy and preserve surveillance video of illegal or suspicious activity.
  - g) Failed to record or maintain surveillance video of a cheating incident.

**VIOLATIONS:**

**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 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.
- (2) Knowingly causes, aids, abets, or conspires with another to cause, any person to violate any of the laws of this state or the rules of the commission
- (7) Makes a misrepresentation of, or fails to disclose, a material fact to the Commission.

**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 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.

**RCW 9.46.190 Violations relating to fraud or deceit.**

Any person or association or organization operating any gambling activity who or which, directly or indirectly, shall in the course of such operation:

- (1) Employ any device, scheme, or artifice to defraud; or
- (2) Make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statement made not misleading, in the light of the circumstances under which said statement is made; or
- (3) Engage in any act, practice or course of operation as would operate as a fraud or deceit upon any person;

Shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.02.021.

**RCW 9.46.185 Causing person to violate rule or regulation.**

Any person who knowingly causes, aids, abets, or conspires with another to cause any person to violate any rule or regulation adopted pursuant to this chapter shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021.

**RCW 9.46.153(3) Applicants and licensees — Responsibilities and duties — Waiver of liability — Investigation statement as privileged.**

All licensees, and persons having any interest in licensees, including but not limited to employees and agents of licensees, and other persons required to be qualified under this chapter or rules of the Commission shall have a duty to inform the Commission or its staff of any action or omission which they believe would constitute a violation of this chapter or rules adopted pursuant thereto. No person who so informs the Commission or the staff shall be discriminated against by an applicant or licensee because of the supplying of such information.

**WAC 230-15-305 Reporting illegal or suspicious activities.**

(1) Class F and house-banked card game licensees must report to us within three business days any illegal or suspicious activities within the portion of their business premises required to be under surveillance.

(2) Licensees must:

- (a) Make a copy of the entire recorded sequence of the activity; and
- (b) Give the original recording to us or other law enforcement when requested; and
- (c) Keep the copy for at least thirty days.

**WAC 230-06-005 Accept checks in gambling activities.**

(1) Licensees may accept a check in the place of cash from a player for authorized gambling activities if the check is fully negotiable when it is accepted and is:

- (a) From the player's personal account and is dated the same day; or
- (b) Issued by a government agency or by a business, such as a payroll check.

(2) Licensees must not accept:

- (a) Third-party checks drawn on a personal account or counter checks; or
  - (b) Checks from a player who owes the licensee money from a previous returned personal check.
- If licensees use check guarantee and collection services, this subsection does not apply.

(3) If licensees accept a check in violation of the provisions of this section, they are violating the rules against extending credit.

**WAC 230-06-035(1) Credit, loans, or gifts prohibited.**

Licensees, employees, or members must not offer or give credit, loans, or gifts to any person playing in an authorized gambling activity or which makes it possible for any person to play in an authorized gambling activity.

**WAC 230-15-580 Accepting checks at the cashier's cage.**

(The following subsections apply.)

(1) House-banked card game licensees may accept checks from players as explained in WAC 230-06-005 and must meet the following additional requirements:

- (a) Licensees may only accept checks from players at the cashier's cage; and
- (b) Before cashing the check, the cage cashier must examine the player's identification to confirm the player's identity; and
- (c) The cage cashier must:
  - (i) Endorse the check "for deposit only" to the licensee's bank account; and
  - (ii) Initial the check; and
  - (iii) Date and time stamp the check; and
  - (iv) Verify that the player is not listed on the daily returned check report. If licensees use a check guarantee and collection service, the licensee may disregard this subsection; and
  - (v) Exchange the check for currency and coin in the amount for which the check is drawn, minus any applicable fees; and
  - (vi) Forward all player checks to the main bank cashier.

(3) Licensees must deposit all checks received into their bank account, within two banking days after receipt. Checks deposited to an armored car service within two banking days meet this requirement.

**WAC 230-15-425 Internal controls.**

(1) House-banked card game licensees must:

- (a) Adopt internal controls in the format we require; and
- (b) Ensure that all games are closely controlled and operated in accordance with gambling laws, our rules, and the house-banked card game licensee's internal controls (ICs); and
- (c) Follow all ICs at all times; and
- (d) Have all ICs available to us at all times at the licensed business premises; and
- (e) Have the ICs available to card room employees for their individual functions; and
- (f) Ensure that card room employees are knowledgeable in all accounting and internal control procedures for their individual functions and ensure that employees follow the ICs.

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

**WAC 230-15-319 Retaining video recordings.**

- (1) Class F and house-banked card game licensees must label video recordings and audio recordings, as required, to identify the activities recorded.
- (2) Licensees must keep:
  - (a) All recordings for seven gambling days, for example, Monday's gambling day recording may be recorded over on Tuesday of the following week; and
  - (b) Recordings documenting jackpot pay outs for at least thirty days: (i) For player supported jackpots, retain recordings of jackpots of five hundred dollars or more; and (ii) For house-banked games, retain recordings of jackpots of three thousand dollars or more; and
  - (c) Recordings of evidentiary value for as long as we request.
- (3) We may increase these retention requirements by notifying licensees.
  - 1) Under RCW 9.46.190, Wizards engaged in an act, practice or course of operation that would operate as a fraud or deceit upon any person when the owners authorized and instructed employees to cash checks John Chan wrote totaling \$35,000, although at least one owner knew that the checks were not John Chan's. Mr. Baumann and Mr. Coyle failed to disclose or made a misrepresentation of information to the agent about the fraudulent checks John Chan cashed at Wizards.
  - 2) The owners of Wizards caused card room employees to violate gambling rules, in violation of RCW 9.46.185, when they authorized and instructed Wizards' employees to cash checks that did not come from John Chan's personal bank account and to cash a third party check in violation of WAC 230-06-005. As a result, Wizards extended credit, in violation of WAC 230-06-035.
  - 3) Keven Baumann admittedly knew that John Chan wrote checks from his brother's bank account. On March 4, 2010, Cory Cole was told by US Bank that the checks John Chan cashed at Wizards were fraudulent and written from another person's bank account. However, Mr. Baumann and Mr. Coyle failed to report to Commission staff within three business days the illegal or suspicious activity and failed to copy and preserve surveillance video of John Chan cashing the fraudulent checks, in violation of WAC 230-15-305 and RCW 9.46.153.
  - 4) Wizards' employees failed to follow its check cashing procedures and internal controls, in violation WAC 230-15-580 and WAC 230-15-425, when the cage cashiers failed to:
    - Run checks that John Chan wrote from another person's bank account through the Landmark check verification system; and
    - Review John Chan's identification prior to cashing the checks.
  - 5) Wizards willfully disregarded gambling laws and regulations when they cashed checks John Chan wrote totaling \$35,000, although the owner knew that the checks were not from John Chan's bank account. This also includes cashing a third party check that John Chan wrote to Jonathan Do.
  - 6) Therefore, grounds exist to suspend or revoke Wizards' licenses under RCW 9.46.075(1), (2), and (7), and WAC 230-03-085(1), (3), and (8).

7) The licensee did not properly record or maintain surveillance video of a September 4, 2010, cheating incident and it could not provide a copy of the cheating incident to the agent, in violation of WAC 230-15-319 and WAC 230-15-305.

### III.

The licensee acknowledges that it received and read the Notice of Administrative Charges issued in this case, and understands the facts and violations alleged in it. While not admitting to the facts and violations specified above in section II, the licensee agrees that if the Gambling Commission established the alleged facts in the case at issue, there would be sufficient evidence of the violations as stated in the administrative charges.

The licensee has waived its right to a hearing, based on the terms and conditions of this Settlement Order. The licensee further agrees to the following sanctions:

- 1) On September 1, 2010, Keven Baumann sold his 12.33 percent ownership interest in 15743 Ambaum, LLC., d/b/a Wizards Casino to Cory Coyle. The Promissory Note and Unit Purchase Agreement between Mr. Baumann and Mr. Coyle dated September 1, 2010, shall be amended by **February 4, 2011**, to reflect that in the event of default the shares do not revert back to Mr. Baumann.
- 2) Mr. Baumann will no longer be a substantial interest holder of 15743 Ambaum, LLC., d/b/a Wizards Casino, as defined in WAC 230-03-045.
- 3) Additionally, as of **February 1, 2011**, Mr. Baumann shall no longer be employed, in any capacity, by 15743 Ambaum, LLC., d/b/a Wizards Casino or any successor(s) in interest or entity conducting gambling operating at Wizards current business address until on or after February 1, 2013.
- 4) The licensee's gambling licenses are hereby suspended for a period of **thirty (30) days**, provided that:
  - a) **Twenty-four (24) 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 the terms of this Settlement Order, or any of Washington's gambling statutes or regulations during the one (1) year term. If the licensee violates this Settlement Order or 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 24-day deferred suspension of the current gambling licenses 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 agreement has occurred, he may suspend the license(s) issued to the licensee for up to 24 days, by mailing or delivering a Notice of Order of Administrative Charges to the

licensee. In addition to the consequences of the new violation, the deferred sentence shall also be served. The licensee shall be afforded the opportunity to have an Adjudicative Proceeding, which includes a hearing on the alleged violations.

- c) Pursuant to RCW 9.46.077, the licensee has chosen to vacate the remaining six (6) days of this suspension by paying a monetary penalty of twenty-one thousand nine hundred ninety-three dollars (\$21,993), which represents 50% of the licensee's net gambling receipts for six days, based on information reported by the licensee in its activity reports. The licensee also agrees to reimburse the Commission for a portion of its investigative and administrative costs in the amount of eight thousand and seven dollars (\$8,007). The total amount that the licensee agrees to pay to the Commission is thirty thousand dollars (\$30,000).
- d) The payments shall be made in three installments.
- The first installment shall be received by Commission staff on or before February 15, 2011.
  - The second installment shall be received by Commission staff on or before March 15, 2011.
  - The third installment shall be received by Commission staff on or before April 15, 2011.
- e) Payments must be mailed to Commission Headquarters at the following address:

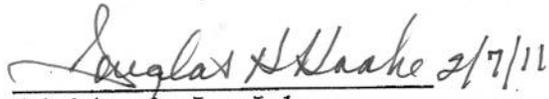
Washington State Gambling Commission  
Attention: Communications and Legal Division – Fines  
P.O. Box 42400  
Olympia, WA 98504-2400

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

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

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

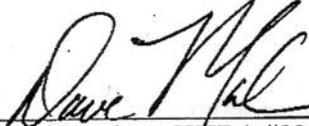
DATED this 28<sup>th</sup> day of JANUARY, 2011.

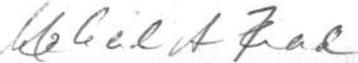
  
Administrative Law Judge

APPROVED FOR ENTRY:

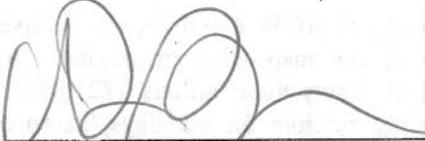
By the signature below, the licensee understands and accepts the terms and conditions of this Order.

  
Cory Coyle, Owner/LLC Manager (Date) 1-28-11  
15743 Ambaum, LLC.,  
d/b/a Wizards Casino

  
David Malone, WSBA #23435 (Date) 1/28/2011  
Miller, Malone, and Tellefson  
Representing 15743 Ambaum, LLC.,  
d/b/a Wizards Casino

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

APPROVED AS TO FORM:

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