

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension of the Licenses to)
Conduct Gambling Activities of:)
)
McCoy's Cavern)
Olympia, Washington,)
)
Licensee.)

NO. CR 2012-00224

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

I.

The Washington State Gambling Commission issued McCoy's Cavern, organization number 00-17853 the following license:

Number 05-09754, authorizing Class "A" Punchboard Pull-Tab activity.

The license expires on December 31, 2012, and was issued subject to the licensee's compliance with state gambling laws and regulations.

II.

Rick Day, Director of the Washington State Gambling Commission, charges the licensee with the following violations of the Washington State Gambling Act, 9.46 RCW, and WAC Title 230:

- 1) On February 17, 2012, a Washington State Gambling Commission Special Agent (agent) called Ian Abel, the owner of McCoy's Cavern. The agent spoke to him about the Quarterly Activity Report (QAR) for the third and fourth quarters of 2011 that had not been submitted.
- 2) The activity report was due at our administrative office by January 30, 2012. However, the activity report was never received, in violation of WAC 230-14-284(2). Mr. Abel said there was a miscommunication with his accountant, and they must not have turned in the QAR. The agent explained that it is a repeat violation and would result in another Notice of Violation and Settlement (NOVAS)¹ and a larger fine.
- 3) On February 17, 2012, the agent and Mr. Abel met at McCoy's Cavern. The agent explained that this was the third QAR in a row that was late and this time the penalty would be a \$500 fine and a NOVAS.
- 4) Mr. Abel pulled out the late QAR from a stack of paper on the table. He offered it to the agent but was reminded he had to mail or deliver it to our administrative office. Mr. Abel had not signed it yet. He explained it was in a pile of paperwork the accountant gave him, and he wasn't aware he had to sign anything.

¹ A NOVAS identifies the violation, and in this case, gives the recipient the opportunity to pay a fine and submit its delinquent report to settle the matter.

- 5) The agent attempted to issue a NOVAS for the violation. Mr. Abel stated he did not want to pay a \$500 fine and asked how many days he needed to shut down instead of paying a fine. The agent stated if he signed the NOVAS, he had 15 days to decide if he wanted to pay it or challenge it. The agent explained to Mr. Abel that a Statement of Charges would be issued if he either failed to pay the NOVAS fine or if he refused to sign it, and that any other settlements would be discussed after a Statement of Charges was issued.
- 6) Mr. Abel stated he was not a criminal and he was operating a clean game. He did not want to sign the NOVAS because he felt it made it look like he was doing something deceptive. The agent explained turning in activity reports are a requirement for any licensed gambling activity. Mr. Abel said he wanted to plead his case to the judge.
- 7) Mr. Abel refused to sign the NOVAS. The agent told Mr. Able he would receive the Statement of Charges in the mail within the next several weeks.
- 8) The agent later verified the licensee submitted his late QAR on February 17, 2012.
- 9) Previously, on August 18, 2011, the licensee received a NOVAS and \$300 fine for a QAR for the first and second quarters of 2011, which was due on July 30, 2011. It was received by Commission staff on August 29, 2011. In addition, on February 10, 2011, the licensee received a warning letter from Commission staff for a late QAR for the third and fourth quarters of 2010 which was due on January 30, 2011. It was received by Commission staff on February 18, 2011.
- 10) McCoy's Cavern's repeated failure to timely submit its activity reports demonstrates the licensee's willful disregard for complying with state administrative rules. Therefore, grounds exist for the suspension of McCoy's Cavern license to conduct gambling activities, based on RCW 9.46.075(1) and WAC 230-03-085(1), (3) and (7).

RCW 9.46.075 Denying, suspending, or revoking a license 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) 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 Denying, suspending, or revoking a 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; or

(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.

WAC 230-14-284 Activity reports 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:

(The following subsections apply.)

(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.

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I hereby certify that I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy thereof, properly addressed with postage prepaid, by regular and certified mail to each party to the proceeding or to her attorney or authorized agent.

Dated at Olympia, Washington this _____ day of _____, 2012.

Washington State Gambling Commission
Communications and Legal Department

STATE OF WASHINGTON)
COUNTY OF THURSTON)

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 a request for hearing will result in the entry of a default order FOR A 30-DAY SUSPENSION OF YOUR LICENSE.

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.

Rick Day

RICK DAY, DIRECTOR

SUBSCRIBED AND SWORN TO before me
this 22 day of March, 2012.

Michelle F. Rancour

NOTARY PUBLIC in and for the State of
Washington residing at Thurston County
My commission expires on 10-19-15



STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I hereby certify that I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy thereof, properly addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 22 day of March, 2012

Mauraen Pretell

Communications and Legal Department
Washington State Gambling Commission