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GAMBLING COMMISSION  
COMM & LEGAL DIVISION

STATE OF WASHINGTON  
GAMBLING COMMISSION

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GAMBLING COMMISSION  
COMM & LEGAL DEPT

In the Matter of the Suspension )  
of the Licenses to Conduct )  
Gambling Activities of: )  
 )  
Yardley Bar & Grill )  
Spokane Valley, Washington, )  
 )  
Licensee. )  
\_\_\_\_\_ )

NO. CR 2012-00162

**SETTLEMENT ORDER**

This Settlement Order is entered into between the Washington State Gambling Commission and Yardley Bar & Grill. The Gambling Commission is represented by Stephanie U. Happold, Assistant Attorney General, and Melinda Froud, Staff Attorney. Gregg Phillips represents the licensee.

I.

The Washington State Gambling Commission issued Yardley Bar & Grill, organization number 00-19776, the following license:

Number 05-19841 Authorizing Class "C" Punchboard/Pull-Tab Activity.

The license expires on June 30, 2012, 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 February 21, 2012. On March 9, 2012, Commission staff received the licensee's Request for Hearing.

III.

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

1. Yardley Bar & Grill failed to pay the required fees of \$1,559 in connection with exceeding their Punchboard/Pull-Tab license class for their license year ending in June 30, 2011.
2. The licensee was licensed for Class "B" Punchboard/Pull-Tab activity, which allows annual gross gambling receipts up to \$100,000.

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3. On November 2, 2011, a Commission Customer Service Specialist sent the licensee a letter, and an Exceeding Class Notice, which reflected that the licensee had gross gambling receipts of \$130,067 for its license year ending June 30, 2011. As a result, the licensee had operated at Class "C" Punchboard/Pull-Tab activity, which allows annual gross gambling receipts up to \$200,000. The letter requested that the licensee pay the exceeding class fees by December 6, 2011.
4. As of February 16, 2012, these fees had not been paid.
5. Previously, Yardley Bar & Grill exceeded their license class in 2004, 2005, and 2010. The licensee paid a fine for each violation.
6. The licensee has the following administrative history with the Washington State Gambling Commission:
- In 2011, 2009, and 2008, the licensee failed to submit their Quarterly Activity Reports, which resulted in a Notice of Violation and Settlement (NOVAS).<sup>1</sup>
  - In 2011, the licensee failed to properly record winners which resulted in a Notice of Infraction (NOI).<sup>2</sup>
  - In 2009, the licensee failed to delete a flare, which resulted in a NOVAS.
  - In 2008, the licensee received a verbal warning regarding a Pull-Tab complaint.
7. Yardley Bar & Grill's repeated failure to apply for a license class upgrade and pay the required fees for exceeding their punchboard/pull-tab license class, in violation of WAC 230-06-130(1) and (2) and WAC 230-06-135(1), (2), and (3), demonstrates the licensee's willful disregard for complying with the state administrative rules.

Therefore, under RCW 9.46.075(1) and (8), WAC 230-03-085(1), (3), and (7), grounds exist to suspend or revoke Yardley Bar & Grill's license.

#### **RCW 9.46.075 Denial, suspension, or revocation of 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 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.

(8) Fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this chapter.

<sup>1</sup> A NOVAS identifies the violation and gives the licensee the opportunity to pay a fine to settle the matter.

<sup>2</sup> A NOI is a written notice, which advises the licensee of a violation of an administrative rule or law. It is often given after the licensee has been given the opportunity for compliance. There is no fine involved.

**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 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
- (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.

**WAC 230-06-130 Exceeding license class.**

- (1) Licensees must not exceed the gross gambling receipts limits for their license class during any annual license period.
- (2) Licensees must apply a projection of year-to-date receipts to the remaining period of their license and, if it indicates that it is reasonably likely that they may exceed their license, they must immediately:
  - (a) Apply for a license that authorizes the anticipated level of gross gambling receipts; and
  - (b) Submit the fee required for the new license, minus the amount originally submitted for the previous license, plus a change of classification fee.

**WAC 230-06-135 Failing to apply for license class upgrade.**

- (1) If licensees fail to apply for a license class upgrade and exceed the license class limit within a present or previous license year, we assess an additional fee. We charge an additional fee of up to fifty percent of the difference between the fee for the present license class and the new license class, or one thousand dollars, whichever is less.
- (2) Licensees must pay any required license class upgrade fee, plus any additional fee required by subsection (1) of this section, within thirty days of our notification.
- (3) Failure to pay the fees may result in an immediate summary suspension of all licenses.

IV.

Gregg Phillips, Owner, acknowledges that he received the Notice of Administrative Charges issued in this case, and understands the facts and violations contained in it.

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

- 1) **Yardley Bar & Grill will surrender its gambling licenses on or before May 14, 2012.**

2) If Yardley Bar & Grill reapplies, or if any applicant related or associated in any way with the current owners of the licensee applies for a license, they shall be required to establish, by clear and convincing evidence, that they are qualified to hold a gambling license.

3) Furthermore, no promises or assurances have been made that Yardley Bar & Grill, or any applicant related or associated in any way with the current owners of the licensee, will receive a license from the Commission should they reapply.

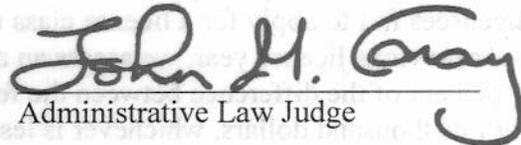
3) **The signed Settlement Order and surrendered license must be received by Commission staff on or before May 14, 2012**, and mailed to Commission Headquarters at the following address:

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:

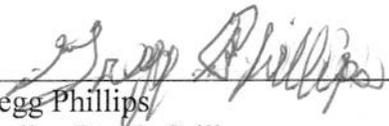
Washington State Gambling Commission  
Attention: Communications and Legal Division  
4565 7<sup>th</sup> Avenue SE; Fourth Floor  
Lacey, WA 98503

DATED this 30 day of May, 2012.

  
Administrative Law Judge


APPROVED FOR ENTRY:

By the signature below, the licensee understands the terms and conditions contained in the settlement order.

  
\_\_\_\_\_  
Gregg Phillips  
Yardley Bar & Grill

5-10-12  
\_\_\_\_\_  
(Date)

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Stephanie U. Happold WSBA#38112  
Assistant Attorney General,  
Representing the Washington State  
Gambling Commission

  
\_\_\_\_\_  
Melinda Froud, WSBA# 26792  
Lead Staff Attorney  
Washington State Gambling Commission