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OCT 09 2013

STATE OF WASHINGTON
GAMBLING COMMISSION

Gambling Commission
Comm. & Legal Division

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

NO. CR 2013-00594

Diamond Lil's)
Renton, Washington,)

SETTLEMENT ORDER

Licensee.)
_____)

Received
SEP 13 2013
Gambling Commission
Comm. & Legal Division

The Washington State Gambling Commission and the licensee, Diamond Lil's have entered into this Settlement Order to resolve the administrative charges pending against the licensee. Gregory J. Rosen, Assistant Attorney General, and Melinda Froud, Staff Attorney, represent the Commission. Lori Bender, Owner, represents the licensee.

I.

The Washington State Gambling Commission issued Diamond Lil's, organization number 00-05124, the following licenses:

- Number 05-01996, authorizing class "C" Punchboard Pull-Tab activity;
- Number 65-00556, authorizing class "F11" Public Card Room activity; and
- Number 67-00044, authorizing class "12" Housebanked Card Room activity.

The licenses expire on September 30, 2013, and were issued subject to the licensee's compliance with state gambling laws and rules.

II.

In the above-entitled case, the Gambling Commission issued a Notice of Administrative Charges and Opportunity for an Adjudicative Hearing on June 18, 2013, seeking the suspension or revocation of Diamond Lil's licenses to conduct gambling activities. On July 1, 2013, Commission staff received the licensee's request for a hearing. The following summary of facts and violations were alleged in the Notice of Administrative Charges:

SUMMARY:

Diamond Lil's removed funds from its Player Supported Jackpot (PSJ)¹ to pay for expenses other than PSJ prizes from January 2013, through May of 2013. In addition, the licensee failed to provide information regarding three cash transfers between Diamond Lil's and Freddie's Club.

¹ The PSJ, or players' pot, is the accumulation of the amounts wagered by players and is gathered by the dealer in the center of the poker table. From the players' pot, the dealer may collect a portion of players' wagers for a jackpot prize. This pot will ultimately be paid back to winning players.

VIOLATIONS:

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

2) 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;

(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.

3) WAC 230-15-390 Collecting an administrative fee on the player-supported jackpot.

Class F or house-banked licensees may collect an administrative fee of up to ten percent of the funds collected for a player supported jackpot (PSJ). Licensees must deduct no other expenses from the PSJ account.

4) WAC 230-15-400 Accounting for player-supported jackpot funds.

(The following subsection applies.)

Class F or house-banked licensees must:

(7) Reconcile the account balance in their bank statement to the PSJ prize balance on their PSJ fund accrual record each month. "Reconcile" means the licensee must compare the two balances, resolve any differences, and document the comparison and the differences in writing. Licensees must keep the reconciliation as part of their records.

5) WAC 230-15-405 Paying out prizes on a player-supported jackpot.

(The following subsection applies.)

(1) Class F or house-banked licensees must award all player-supported jackpot funds as prizes; and

6) WAC 230-15-360 Defining "player-supported jackpot."

"Player-supported jackpot" (PSJ) means a separate contest of chance directly related to the play or outcome of an authorized nonhouse-banked card game.

(The following subsections apply.)

(1) Only Class F or house-banked licensees may establish a prize fund to operate a PSJ for non house-banked card games.

(2) In PSJs, licensees:

- (a) Collect funds from the players' wagers (the pot) for a separate prize; and
- (b) Act only as the custodian of the PSJ funds, including any interest earned on this money; and
- (c) Maintain no legal right to the funds, except for administrative fees; and
- (d) Must strictly account for all funds.

7) WAC 230-06-080 Report changes to application information and submit updated documents and information.

(The following subsection applies.)

(2) Licensees must submit to us any new or updated documents and information, including the following:

(c) All cash or asset contributions, draws from lines of credit, and loans (except those from recognized financial institutions) during any calendar year which by themselves or totaled together are more than ten thousand dollars. Cash or asset contributions do not include donations to licensed charitable or nonprofit organizations.

From January through at least May 2013, the licensee used the PSJ funds to pay expenses which were other than player prizes, in violation of WAC 230-15-390 and WAC 230-15-405. In addition, the licensee failed to document and resolve the differences between the PSJ prize fund accrual record and the PSJ bank statement, in violation of WAC 230-15-400. The licensee also failed to act as a custodian of the funds and failed to maintain a strict accounting for the money, in violation of WAC 230-15-360. In addition, the licensee failed to provide information regarding three cash transfers, in violation of WAC 230-06-080. Therefore, grounds exist for the suspension or revocation of Diamond Lil's licenses to operate gambling activities, based on RCW 9.46.075(1), and WAC 230-03-085(1), (3), and (8).

III.

The facts and violations set forth in paragraph II above constitute grounds for the suspension or revocation of the licenses issued to Diamond Lil's pursuant to RCW 9.46.075 and WAC 230-03-085.

IV.

The licensee acknowledges that it received the Notice of Administrative Charges issued in this case, and understands the facts and violations contained in it.

On July 1, 2013, Commission staff received Diamond Lil's request for a hearing in this matter; however, 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 terms and sanctions:

1) Diamond Lil's licenses gambling licenses are hereby suspended for a period of **fifteen (15) days**, provided that:

- a) **Thirteen (13) 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 thirteen-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 three 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 two (2) days** of the suspension by paying a fine of **one hundred and sixteen dollars (\$116)**, which represents 50 percent of the licensee's daily costs averaged from the last two Quarterly Activity Reports. The licensee also agrees to reimburse the Commission for its investigative and administrative costs in the amount of **seven thousand, six hundred twenty-nine dollars (\$7,629)**, for a total penalty of **seven thousand, seven hundred forty-five dollars (\$7,745)**.

III

III

III

- d) **The signed order and payment must be received by Commission staff on or before Monday, September 16, 2013, 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

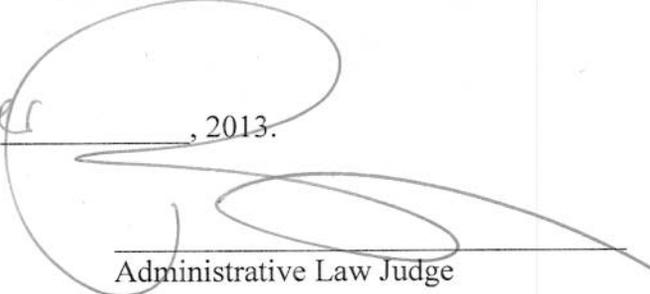
or delivered (in person or via private courier) to the following address:

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

4) The licensee shall reimburse the Commission for the costs incurred in conducting a follow up inspection within thirty (30) days after receiving notice of the costs of such inspection. The follow up inspection shall not exceed ten hours and shall be made within six (6) months after the entry of this Order; this will allow the licensee additional time to ensure that it is complying with state gambling laws and rules.

5) If the licensee makes its payment as agreed, 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 7th day of October, 2013.



Administrative Law Judge

APPROVED FOR ENTRY:

APPROVED AS TO FORM:

By signing this Settlement Order,
the licensee acknowledges and understands
the terms and conditions contained in it.

Lori Bender Date 9-12-13

Lori Bender, Owner
Diamond Lil's, Licensee

Gregory J. Rosen

Gregory J. Rosen, #15870,
Assistant Attorney General,
Representing the Washington
State Gambling Commission

Melinda A. Froud

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