STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the License to Operate Gambling Activities of: Flamin' Joe's Spokane, Washington, Licensee.	)	NO. CR 2013-00519 **NOTICE OF ADMINISTRATIVE CHARGES AND OPPORTUNITY FOR AN ADJUDICATIVE PROCEEDING**

I.

The Washington State Gambling Commission issued Flamin' Joe's,[1] located at 7015 N Division St., Spokane, WA 99223, organization number 00-22867 the following license:

Number 05-21171, authorizing Class "A" Punchboard Pull-Tab activity.

The license expires on December 31, 2013, and was issued subject to the licensee's compliance with state gambling laws and regulations.

II.

Mark Harris, Assistant 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.

SUMMARY:

Sally B. Guthrie is the sole owner of Flamin' Joe's. Both Flamin' Joe's locations are licensed for Punchboards/Pull-Tabs. Ms. Guthrie is the subject of a pending federal charge of Conspiracy to Distribute a Controlled Substance (oxycodone hydrochloride), a felony.

FACTS:

1) A Washington State Gambling Commission Special Agent (agent) was assigned to Sally B. Guthrie's file to investigate her criminal history after the agency was informed she is the subject of a pending federal charge. Ms. Guthrie is a substantial interest holder in Flamin' Joe's and therefore must meet the qualifications to be licensed.[2]

[1] There is a Flamin' Joes' North location and a Flamin' Joes' South location, both located in Spokane.
[2] A substantial interest holder is defined under WAC 230-03-045(1) as "a person who has actual or potential influence over the management or operation of any organization, association, or other business entity."

2) As part of the investigation, the agent verified that Ms. Guthrie was the subject of a pending federal charge. The agent requested certified copies of the Indictment and the Percentage Bond with Deposit. The following is a summary of the documents that the agent received:

- On January 25, 2013, in the United States District Court, Eastern District of Washington, an Indictment was filed against Ms. Guthrie and numerous co-conspirators. The Indictment charges 32 counts ranging from Attempted Possession with Intent to Distribute a Controlled Substance to Continuing Criminal Enterprise. However, Ms. Guthrie is only named in Count Two, Conspiracy to Distribute a Controlled Substance.

- Count Two states that no later than 2008 and continuously thereafter up to January 25, 2013, Ms. Guthrie and her co-conspirators "did knowingly and intentionally combine, conspire, confederate and agree together with each other…to commit the following offense against the United States, to wit: conspiracy to distribute a mixture or substance containing a detectable amount of oxycodone hydrochloride, an opiate, and Schedule II controlled substance…specifically in the form of pills."

3) On January 28, 2013, an Arrest Warrant was issued for Ms. Guthrie and she was arrested on February 28, 2013.

4) On March 1, 2013, a Percentage Bond with Deposit was filed in the United States Court, Eastern District of Washington, for Ms. Guthrie. It states that Ms. Guthrie is bound to pay $150,000 to ensure that she appears for future court dates, and that she deposited $15,000 with the Court.

VIOLATIONS

1) RCW 9.46.075 Denial, suspension, or revocation of certification, 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;

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

(9) Is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses included under subsection (4)[3] of this section: PROVIDED, That at the request of an applicant for an original license, the commission may defer decision upon the application during the pendency of such prosecution or appeal;

(10) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain;

(11) Is a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates probable cause to believe that the association is of such a nature as to be inimical to the policy of this chapter or to the proper operation of the authorized gambling or related activities in this state. For the purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain utilizing such methods as are deemed criminal violations of the public policy of this state. A career offender cartel shall be defined as any group of persons who operate together as career offenders.

2) 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, certified employee, or anyone holding a substantial interest in the applicant's or certified employee'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.

(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

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[3] (4) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, wilful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude.

(d) Habits; or
(e) Associations.

3) RCW 9.46.153 Applicants and licensees — Responsibilities and duties — Waiver of liability — Investigation statement as privileged.
It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

Sally Guthrie, owner of both Flamin' Joe's locations, has failed to establish by clear and convincing evidence, as required by RCW 9.46.153(1), that she is qualified to be a substantial interest holder. In addition, Ms. Guthrie is the subject of a pending federal charge of Conspiracy to Distribute Controlled Substance, a felony. As a result, there are grounds to revoke Flamin' Joe's license based on RCW 9.46.075(1), (2), (8), (9), (10), and (11) and WAC 230-03-085(1) and (8).

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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 this document will result in the entry of a default order REVOKING your licenses.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

Mark Harris, being first duly sworn on oath, deposes and says: That he has read the foregoing Notice of Administrative Charges and Opportunity for Adjudicative Proceeding, knows the contents thereof, and believes the same to be true, and that he is the Assistant Director of the Washington State Gambling Commission and in that capacity has executed said Statement of Charges.

Mark Harris
MARK HARRIS, ASSISTANT DIRECTOR

SUBSCRIBED AND SWORN TO before me this 17 day of July, 2013.

Maureen Pretell
NOTARY PUBLIC in and for the State of Washington residing at: Thurston County
My commission expires on December 2, 2015

STATE OF WASHINGTON)
)
COUNTY OF THURSTON)

I certify I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy, property 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 17 day of July, 2013

Maureen Pretell