

STATE OF WASHINGTON
GAMBLING COMMISSION

RECEIVED
MAY 09 2012
GAMBLING COMMISSION
COMM & LEGAL DEPT

In the Matter of the Suspension or)
Revocation of the License to)
Conduct Gambling Activities of:)
)
Kozy Tavern)
Everett, Washington,)
)
Licensee.)
_____)

No. CR 2012-00420

SETTLEMENT ORDER

RECEIVED

MAY 22 2012

GAMBLING COMMISSION
COMM & LEGAL DEPT

The Washington State Gambling Commission and the licensee, Kozy Tavern, enter into this Settlement Order to resolve the administrative charges issued against the licensee. Stephanie U. Happold, Assistant Attorney General, and Melinda Froud, Staff Attorney, represent the Gambling Commission. Kozy Tavern is represented by its owner, Donald Hendershot.

I.

The Washington State Gambling Commission issued Kozy Tavern, organization number 00-21018, located at 2718 Hewitt Avenue, Everett, the following license:

Number 05-20451, authorizing Class "E" Punchboard Pull/Tab activity.

The license, which expires on September 30, 2012, 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 April 10, 2012. The licensee received the Notice, and on April 27, 2012, Commission staff received the licensee's request for hearing.

III.

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

SUMMARY:

Kozy Tavern had not submitted its quarterly activity report for the third and fourth quarters of 2011, which was due on January 30, 2012. This is the fourth time out of the last five reporting periods that the licensee has failed to timely submit its activity report. On April 24, 2012, the Commission received the licensee's quarterly activity report for the third and fourth quarters of 2011.

VIOLATIONS:

RCW 9.46.075(1) 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.

(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.

IV.

On April 27, 2012, Commission staff received the licensee's request for a hearing and its quarterly activity report for the third and fourth quarters of 2011. The licensee waives its right to a hearing and the parties agree to settle this matter under the following terms:

1) The licensee's gambling license is hereby **suspended for a period of fifteen (15) days**, provided that **three (3) days of the suspension** shall not be currently served, but **shall be deferred for a period of two years** from the date of entry of this Settlement Order, subject to the following:

- The licensee must not violate the terms of this Settlement Order, or Washington's gambling statutes and/or regulations during the two (2) year term, including failing to submit future activity reports when due.
- If the licensee violates the terms of this order, 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 three (3) day suspension of the current gambling license and any subsequently acquired gambling license(s).

2) The parties agree that the Director of the Washington State Gambling Commission, pursuant to this settlement, has sole discretion to determine whether the licensee has violated any term of this settlement.

3) In the event the Director determines that a violation of this section or any other type of violation has occurred, he may suspend the license(s) issued to the licensee by mailing or delivering a Notice of Administrative Charges to the licensee. The suspension shall be in addition to the consequences of the new violation. The licensee shall be given the opportunity to have an Adjudicative Proceeding, which includes a hearing on the alleged violations.

4) Pursuant to RCW 9.46.077, the licensee has chosen to **vacate the remaining twelve (12) days** of this suspension by paying a fine in the amount of **one thousand dollars (\$1,000)**. The licensee has also agreed to reimburse the Commission for its investigative and administrative costs in the amount **three hundred dollars (\$300)**, for **total fines and costs of one thousand, three hundred dollars (\$1,300)**.

a) **Payments are due in two installments.**

- **The first installment of \$650 is due by May 11, 2012.**
- **The second installment of \$650 is due by June 11, 2012.**

b) 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:

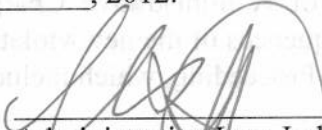
Washington State Gambling Commission
Attention: Communications and Legal Division – Fines
4565 7th Avenue SE; Fourth Floor
Lacey, WA 98503

5) **The signed order and first payment must be received by Commission staff on or before May 11, 2012.**

6) The licensee agrees to submit its activity reports within 30 days following the end of the reporting period. Failure to do so may result in the filing of administrative charges for the suspension or revocation of Kozy Tavern's license to conduct gambling activities.

8) If the licensee makes its payments, as set forth above, this matter will be deemed closed. However, if the licensee fails to make its payments on time, the Director may impose a **two (2)** day suspension for each late payment. Serving the suspension would not, however, relieve the licensee of its obligation to pay its fine.

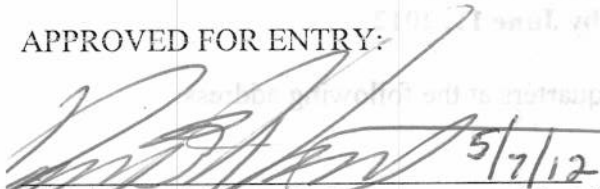
DATED this 18th day of May, 2012.



Administrative Law Judge

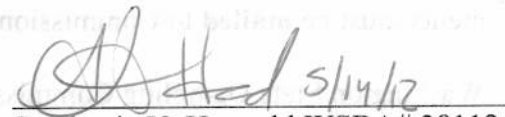
By his signature, the Licensee understands and accepts the terms and conditions of this Order.

APPROVED FOR ENTRY:




Donald Hendershot, Owner (Date)
Kozy Tavern

APPROVED AS TO FORM:



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



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