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In the Matter of the Suspension or Revocation of )  
the License to Conduct Gambling Activities of: )  
)  
MKM Enterprises Inc. )  
d/b/a Just Left Pub & Grill )  
Lynnwood, Washington, )  
)  
Licensee. )

NO. CR 2012-01176

**SETTLEMENT ORDER**

This Settlement Order is entered into between the Washington State Gambling Commission and MKM Enterprises Inc., doing business as Just Left Pub & Grill. Stephanie U. Happold, Assistant Attorney General, and Melinda Froud, Lead Staff Attorney, represent the Commission. Mitchel Clark, owner, represents the licensee.

I.

The Washington State Gambling Commission issued MKM Enterprises Inc., doing business as Just Left Pub & Grill, organization number 00-20368, the following license:

Number 05-20117, authorizing Class "G" Punchboard/Pull-Tab activity.

The license expires on September 30, 2013, 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 September 19, 2012. The licensee received the Notice, and on October 9, 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:**

MKM Enterprises Inc., doing business as Just Left Pub & Grill, failed to pay the required fees of \$1,173 for exceeding their Punchboard/Pull-Tab license class for their license year October 2010 to September 2011.

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## **VIOLATIONS:**

### **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.

### **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

### **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.

#### IV.

The Commission alleges that the facts and violations specified in paragraph III above constitute grounds to suspend or revoke Just Left Pub & Grill's license under RCW 9.46.075(1) and WAC 230-03-085(1) and (3).

#### V.

Mitchel Clark, 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 waived its right to a hearing, based on the terms and conditions of this Settlement Order and agrees to the following terms and sanctions:

- 1) The licensee's gambling license is suspended for a period of five **(5) days**, provided that:
  - a) **Two (2) days** of the suspension shall not be currently served, but shall be deferred for two years, 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 deferral period.
  - b) 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 two-day deferred suspension of the current gambling licenses and any subsequently acquired gambling licenses.
  - c) 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.
- 2) Pursuant to RCW 9.46.077, the licensee has chosen to vacate the **remaining three (3) days** of the suspension by paying a fine of **six hundred and five dollars (\$605)**, which represents 50 percent of the licensee's daily net receipts, as averaged from the 2011 Quarterly Activity Reports. The licensee also agrees to reimburse the Commission for a portion of its investigative and administrative costs in the amount of **one thousand, one hundred, and ninety-seven dollars (\$1197)**, for a total penalty of **one thousand, eight hundred and two dollars (\$1,802)**.


3) Full payment and the signed Settlement Order must be received by Commission staff on or before December 21, 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:

Attention: Communications and Legal Division – Fines  
4565 7<sup>th</sup> Avenue SE; Third Floor  
Lacey, WA 98503


DATED this 3<sup>rd</sup> day of JANUARY, <sup>2013</sup>~~2012~~ (12)


  
\_\_\_\_\_  
Administrative Law Judge

APPROVED FOR ENTRY:

  
\_\_\_\_\_  
Mitchel Clark (Date)  
Owner, Just Left Pub & Grill

APPROVED AS TO FORM:

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

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