

BEFORE THE LIMITED GAMING CONTROL COMMISSION

STATE OF COLORADO

Case No. DO 02-01

ORDER DENYING PETITION FOR DECLARATORY ORDER

IN THE MATTER OF THE PETITION FOR DECLARATORY ORDER OF WILLIAM H. SHERIDAN

This matter comes before the Colorado Limited Gaming Control Commission ("Commission") upon the Petition for a Declaratory Order under Rules 47-601 to - 603 of the Colorado Limited Gaming Regulations, 1 Colo. Code Reg. 207-1., filed by William H. Sheridan ("Petitioner"). The Colorado Division of Gaming ("Division") filed its response to the petition and additional information.

The Commission considered the matter at its meeting on July 18, 2002, en banc, and rendered its decision during the public meeting portion of its meeting. Having considered the record and the arguments of the parties, the Commissioners voted unanimously to deny the petition for a declaratory order.

In support of its denial of the petition the Commission makes the following findings and conclusions:

1. Petitioner sought review by the Division and its Director of a determination by the Midnight Rose Casino that he was not entitled to the award of a jackpot related to a card game in which he participated.
2. The Director concluded that Petitioner was not entitled to the jackpot award and notified Petitioner of his decision in a letter dated May 17, 2002. In reaching his decision, the Director found as follows:

The determination of bad beat eligibility is made by applying both the rules of Texas Hold 'em from the Colorado Gaming Regulations, and the Bad Beat rules written by the Midnight Rose and approved by the Division in advance of play. Together, these rules state clearly that a player's hand is the best five-card hand which can be created from the seven dealt (two to the player combined with five community cards). For a bad beat to qualify for award, both hole cards held by both the

winning player and the player who suffered the apparent bad beat must be used. In your case, the player holding the winning hand held a hand consisting of four jacks and an ace – only one hole card, a jack, was used to create this hand. This player did not have the option, nor did the dealer, to decide that the player should, or could, play the hand as four jacks and a king. The rules require the best possible hand to be created, and the cards speak for themselves. The best possible hand at showdown had to have included the ace from the community cards, and not the king from the player's hole cards.

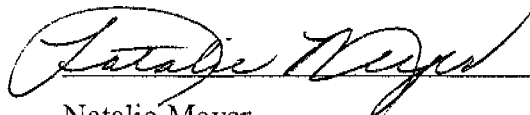
Since the winning player was unable to use both hole cards to create the winning hand, a bad beat qualifying for the award did not occur.

3. The Commission finds the Director's reasoning persuasive and adopts the Director's determination quoted above as a basis for denying the petition.

4. Petitioner's Petition for a declaratory order is denied.

Done this 15th day of August, 2002.

FOR THE COMMISSION:



Natalie Meyer
Commissioner and Chairman
Limited Gaming Control Commission,
State of Colorado

NOTICE OF APPEAL RIGHTS

This Order of Dismissal is subject to appeal pursuant to sections 12-47.1-521, C.R.S. and 24-4-106, C.R.S. Pursuant to section 24-4-106(11), C.R.S., judicial review of this decision is commenced by filing a notice of appeal with the court of appeals within forty-five days after the date of the service of this final order, together with a certificate of service of

said notice of appeal on the Colorado Limited Gaming Control Commission and on all parties appearing before the Commission in this matter.

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within Order Denying Petition for Declaratory Order upon all parties herein by depositing copies of same in the United States mail, postage prepaid, at Denver, Colorado, this 15th day of August 2002 addressed as follows:

William H. Sheridan
5240 Villa Cir.
Colorado Springs, CO 80918

and by interagency mail addressed as follows:

Ceri C. Williams
1525 Sherman Street, 5th Floor
Denver, CO 80203

Cindy Riedo