

STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE GAMBLING COMMISSION

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GAMBLING COMMISSION
COMM & LEGAL DIVISION

In the Matter of the Revocation of the
License to Conduct Gambling Activities
of:

BILLY D. BURROWS

Licensee

OAH No. 2009-GMB-0032
GC No. CR 2006-000220

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND INITIAL ORDER

STATEMENT OF THE CASE

Administrative Law Judge Charles E. Woode, conducted an administrative hearing in this matter on August 17, 2009, at the Gambling Commission Office, 4565 7th Avenue SE, Lacey, Washington. The issue presented is whether the Washington State Gambling Commission (the "Commission") has sufficient grounds to revoke Billy D. Burrows's Gambling License.

H. Bruce Marvin, Assistant Attorney General, appeared and represented the Commission. Special Agent Julie Sullivan appeared and testified for the Commission. Billy Burrows (the "Licensee") appeared and represented himself.

On or about March 27, 2009, the Director of the Commission issued a Notice of Administrative Charges. The Notice alleged grounds for revoking Mr. Burrow's license to conduct gambling activities. Mr. Burrows requested an administrative hearing on or about April 9, 2009, and it was accepted as timely.

The Commission issued a notice of hearing on May 7, 2009. It notified Mr. Burrows of the time and place of the hearing. Four exhibits were received into the record.

Having considered the evidence, I now enter the following findings of fact:

FINDINGS OF FACT

1. Mr. Burrows holds a Card Room Employee License (CRE) issued by the Washington State Gambling Commission (the Commission) to work at 11th Frame Restaurant and Lounge in Kenmore, Washington. His first license was issued in 2002, and he has maintained a license since that time.

2. In the early morning of August 16, 2008, Mr. Burrows went to the Royal Casino in Everett, became intoxicated, and started acting erratically. When asked to leave the premises, he refused to do so. Mr. Burrows finally left the premises when deputies from the Snohomish County Sheriff's Office arrived and asked him to leave.

3. After leaving the premises, Mr. Burrows walked into traffic. To ensure his safety, the deputies pulled him back. After being pulled back, Mr. Burrows became belligerent with the deputies, causing them to believe he was going to assault them. At that point, the deputies took Mr. Burrows into custody, and decided to transport him to jail.

4. As they were transporting Mr. Burrows to jail, he broke free from his leg restraints, and kicked out the window of the police vehicle. When the officers attempted to transfer Mr. Burrows to a different police vehicle, he bit the hand of one of the officers.

5. On October 17, 2008, the State of Washington filed a criminal complaint against Mr. Burrows in Snohomish County Superior Court, charging Mr. Burrows with Third Degree Assault.

6. On January 15, 2009, Mr. Burrows pled guilty to Third Degree Assault, a Class C Felony, in Snohomish County Superior Court. On February 27, 2009, a Snohomish County

Superior Court Judge sentenced Mr. Burrows to 30 days confinement, to be served as work release commencing on or before April 1, 2009, and one year of community custody.

7. Mr. Burrows failed to timely notify the Commission of his criminal charge or the Judgment and Sentence issued in his case.

8. Mr. Burrows takes full responsibility for his actions, and stated that he has not had any alcohol since August 2008.

Based upon the above findings of fact, the following conclusions of law are entered.

CONCLUSIONS OF LAW

Jurisdiction

1. The undersigned administrative law judge has jurisdiction to hear and initially decide this matter in an adjudicative proceeding. RCW 34.05.485(1)(c), 34.12.030(1), 9.46.095 and WAC 230-17-025.

Grounds For Revoking a License

2. The Commission may revoke any license or permit it has issued under the following grounds:

(a) When it in the public interest to do so. RCW 9.46.075(1) & WAC 230-03-085(1).

RCW 9.46.075(1) provides as follows:

The commission may ... 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:

(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(1) also provides that the Commission may revoke a license when the licensee “[c]ommits any act that constitutes grounds for ... revoking licenses ... under RCW 9.46.075.”

(b) When the licensee has pled guilty to a crime involving physical harm to an individual. RCW 9.46.075(4).

RCW 9.46.075(4) provides the Commission may revoke the license of a licensee who has “been convicted of, ... or pleaded guilty to, ...any crime, whether a felony or misdemeanor involving ... physical harm to individuals...”

“Physical harm to individuals” as used under RCW 9.46.075(4), includes any form of criminal assault, any crime involving a threat of physical harm against another person, or any crime involving an intention to inflict physical harm on another person. WAC 230-03-085(2).

(c) When the holder of a license is serving a term of probation or community supervision imposed as a sentence for any misdemeanor or felony offence - WAC 230-03-085(5).

WAC 230-03-085(5) provides the Commission may revoke any license of a licensee who “is serving a period of probation or community supervision imposed as a sentence for any juvenile, misdemeanor, or felony criminal offense, whether or not the offense is covered under RCW 9.46.075(4)”.

(d) When the licensee makes a false representation or fails to disclose a material fact to the Commission . RCW 9.46.075(7).

RCW 9.46.075(7) provides the Commission may revoke any license of licensee who “[m]akes a misrepresentation of, or fails to disclose, a material fact to the commission.”

(e) When the licensee fails to report all criminal actions filed against them within thirty days, or fails to send a copy of the final written decision or settlement within thirty days after the case is resolved. WAC 230-06-085 & WAC 230-03-085(7).

WAC 230-06-085 provides in relevant part as follows:

(1) Licensees must report to us in writing within thirty days all criminal actions filed against the licensee...

(2) We must receive a copy of the final written decision or settlement within thirty days after the case is resolved.

WAC 230-03-085 (7), on the other hand, provides that the Commission may revoke any license of licensee who “[f]ails to provide us with any information required under commission rules within the time required...”

3. Here, Mr. Burrows has violated RCW 9.46.075 and WAC 230-03-085. Therefore, the Commission may revoke his license under RCW 9.46.075 and WAC 230-03-085.

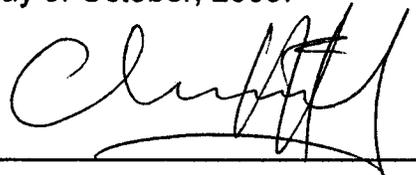
4. Because I have found these violations, Mr. Burrows has failed to meet his burden of proving himself qualified to hold a gambling license under RCW 9.46.153(1). Therefore, the Commission may revoke his application under RCW 9.46.075(8).

From the foregoing conclusions of law, NOW THEREFORE,

INITIAL ORDER

IT IS HEREBY ORDERED That, in the public interest, the Commission's revocation of Billy D. Burrows' license authorizing him to be employed as a public cardroom employee is AFFIRMED.

DATED at Olympia, Washington, this 23rd day of October, 2009.



Charles E. Woode
Administrative Law Judge
Office of Administrative Hearings

NOTICE TO THE PARTIES

Pursuant to the Washington State Gambling Commission Rules, WAC 230-50-560, WAC 230-50-200 and WAC 230-50-210, you have twenty-three days from the date this initial order was mailed to file an appeal of this order known as a "petition for review". The petition for review should specify the parts of the initial order which you disagree with and should refer to the evidence in the record that supports your position. If you decide to petition for review, you must serve copies of your petition on all parties or their representatives at the same time you file it with the Gambling Commission. If a petition for review is not received by the Gambling Commission within 23 days of the date this initial order was mailed, the Commission will automatically adopt this order, and it will thereby become final.

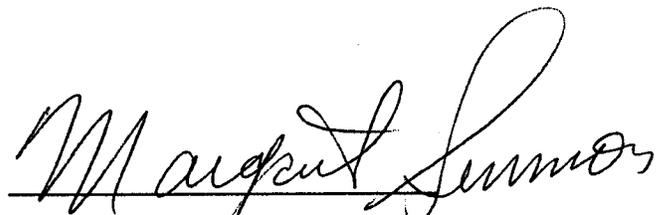
Any party may file a written response to a petition for review, known as a reply. If you wish to file a reply, it must be filed with the Commission within thirty days of the date you are served with the petition. You must serve copies of the reply on all parties or their representatives at the same time you file your reply.

Any party may file a cross appeal. Cross appeals must be filed with the commission within ten days of the date when the petition for review was filed with the Commission, pursuant to WAC 230-50-560 and WAC 230-50-210. If you wish to make a cross appeal, you must serve copies of the cross appeal upon all other parties or their representatives at the same time you file your cross appeal.

If a petition for review is timely filed with the commission, then at least a majority of the Commission members shall review the petition within one hundred and twenty days after the petition is filed and render a final order.

Certification of Mailing

I certify that I mailed true and exact copies of the **Findings of Fact, Conclusions of Law and Initial Order** to the following parties, postage prepaid this 23rd day of October 2009 at Olympia, Washington.


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