

MAY 25 2010

STATE OF WASHINGTON  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE WASHINGTON STATE GAMBLING COMMISSION

**GAMBLING COMMISSION  
COMM & LEGAL DIVISION**

In the Matter of the Summary Suspension ) And Revocation of the License to Conduct ) Gambling Activities of: ) ) DANIEL V. GARRISON, ) ) LICENSEE ) _____ )	DOCKET NO: 2010-GMB-0011  CR No. 2009-01237  <i>CORRECTED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND INITIAL ORDER</i>
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Administrative Law Judge John M. Gray conducted an administrative hearing in this matter on March 16, 2010, at the Gambling Commission Office (hereinafter, "the Commission"), 4565 7<sup>th</sup> Avenue, Lacey, Washington.

Bruce Marvin, Assistant Attorney General, appeared and represented the Commission. Julie Sullivan, Special Agent with the Commission, appeared as a witness for the Commission.

Daniel V. Garrison, the Licensee, appeared and represented himself. David Garrison, Daniel's father, appeared as a witness for the Licensee.

PROCEDURAL HISTORY:

The Commission issued an Order on September 30, 2009, summarily suspending Mr. Garrison's Card Room Employee's license because of his criminal convictions. Mr. Garrison requested a stay hearing on October 5, 2009. The Commission set the stay hearing for October 12, 2009. The hearing was continued to December 14, 2009, because Mr. Garrison was in jail on October 12, 2009. The December 14 hearing was continued because Mr. Garrison was in jail on that date. The stay hearing was held on January 22, 2010, and the Administrative Law Judge denied the application for a stay in an order dated February 18, 2010.

The hearing on the merits to revoke Mr. Garrison's Card Room Employee's license was scheduled for February 22, 2010. The hearing was continued to March 16, 2010.

Issues:

1. Whether the Commission has grounds to revoke Mr. Garrison's gambling license under RCW 9.46.075(1) and WAC 230-03-085(1), which provide that the Commission may revoke a license for any reason deemed to be in the public interest or when the licensee violates the Washington State Gambling laws or regulations set forth in Chapter 9.46 RCW or Chapter 230 WAC.

2. Whether there are grounds to revoke Mr. Garrison's gambling license under RCW 9.46.075(4), which provides that the Commission may revoke a gambling license if the licensee has been convicted or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, or any other similar offense; or any crime, whether a felony or misdemeanor, involving physical harm to an individual, or moral turpitude.

3. Whether there are grounds to revoke Mr. Garrison's gambling license under WAC 230-03-085(2), which provides that the Commission may revoke a gambling license if the licensee has been convicted of or pleaded guilty to 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, whether any of these crimes is a misdemeanor or felony.

4. Whether there are grounds to revoke Mr. Garrison's gambling license under WAC 230-03-085(5), which authorizes the Commission to revoke a gambling license

when the licensee is serving a period of probation imposed as a sentence for a criminal offense, whether or not the offense is covered by RCW 9.46.075(4).

5. Whether there are grounds to revoke Mr. Garrison's gambling license under WAC 230-03-085(8), which authorizes the Commission to revoke a gambling license when the licensee poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods or activities in the conduct of gambling activities, as demonstrated by: (a) prior activities, (b) criminal record, (c) reputation, (d) habits, or (e) associations.

6. Whether Mr. Garrison can establish that he is qualified to hold a gambling license in conformance with State gambling laws and regulations by clear and convincing evidence, as required by RCW 9.46.075(8) and .153(1).

#### FINDINGS OF FACT

1. The Commission issued a public card room employee's license to Daniel V. Garrison in 2006. The license number is 68-24123, a type 68, class B license. The license will expire on August 13, 2010.

2. Daniel V. Garrison is twenty-two years old and resides in Washington State. He has kept his gambling license current since the Commission issued it in 2006.

3. On or about December 17, 2008, Mr. Garrison assaulted Mirian Ortiz-Garcia by strangulation. The State of Washington charged Mr. Garrison with violating RCW 9A.36.021, second degree assault. Mr. Ortiz-Garcia was his girlfriend. The assault occurred in Mr. Garrison's apartment. The State of Washington also charged Mr. Garrison with violating ch. 10.99 RCW, domestic violence.

4. Mr. Garrison notified the Commission of his arrest for domestic violence on November 3, 2008. On June 15, 2009, Mr. Garrison notified the Commission that he failed to appear for court on June 5, 2009, that an arrest warrant had been issued for him, that he was arrested on June 14, 2009, and appeared in court on June 15, 2009, at which time he was released on his own recognizance.

5. Mr. Garrison pleaded guilty to violations of RCW 9A.36.021 and 10.99.020 on August 4, 2009, in Snohomish County Superior Court, cause no. 09-1-00416-6. Mr. Garrison was sentenced on September 22, 2009. Because the crimes involved domestic violence, as defined in RCW 10.99.020, the Court sentenced Mr. Garrison to three months in jail, authorized work release, twelve months of community custody, prohibited contact with Ms. Ortiz-Garcia, participation in a State certified domestic violence batterer's treatment program and a chemical dependency evaluation, costs, and revocation of firearms rights. Mr. Garrison is on community custody as of the date of this hearing and order. Community custody is an alternative to confinement.

6. On August 6, 2009, Mr. Garrison notified the Commission that he was seeking work release in connection with his sentencing on September 22, 2009.

7. On or about December 6, 2009, Mr. Garrison assaulted a firefighter or other employee of a fire department or fire protection district or county fire marshal's office, who was performing his or her official duties at the time of the assault. The State of Washington charged Mr. Garrison with violating RCW 9A.36.031(1)(e), third degree assault, a felony. On December 21, 2009, the State of Washington amended the charge to a violation of RCW 9A.36.041(1), fourth degree assault, a gross misdemeanor. The

charges were filed in Snohomish County District Court, Everett Division, cause no. 5136A09FE.

8. On December 30, 2009, Mr. Garrison either pleaded guilty or was found guilty of violating RCW 9A.36.041(1), and was sentenced to 365 days in jail, 345 days suspended, a \$5,000 fine, \$4,000 suspended, other fees and costs of \$1,000, restitution, a requirement of no further criminal violations for two years.

#### CONCLUSIONS OF LAW

1. The undersigned administrative law judge has jurisdiction to hear and initially decide this matter. RCW 34.05.425(1)(c); 34.12.030(1); and WAC 230-17-025.

2. During the time material hereto, the licensee, David V. Garrison, has been the holder of a license to act as a public card room employee and is subject to the provisions of RCW 9.46.075 and WAC 230-03-085.

3. The Commission has the broad purpose of protecting the public by insuring that those activities authorized by chapter 9.46 RCW do not maliciously affect the public and do not breach the peace. RCW 9.46.010.

4. It is the affirmative responsibility of each licensee to establish by clear and convincing evidence his continuing qualifications for licensure, RCW 9.46.153(1). Each holder of a license issued pursuant to chapter 9.46 RCW is subject to continuous scrutiny regarding his general character, integrity and ability to engage in or participate in, or associate with, gambling or related activities impacting this state. RCW 9.46.153(7).

5. The Commission may suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest when a licensee 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. RCW 9.46.075(1). The commission may suspend or revoke any and all licenses and permits of any holder who commits any act that constitutes grounds under RCW 9.46.075 for denying, suspending, or revoking licenses or permits. WAC 230-03-085(1).

6. 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 when a licensee 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. RCW 9.46.075(4) and 230-03-085(1) and (2). The record of this proceeding establishes by a preponderance of the credible evidence that the licensee has been convicted of crimes involving harm to individuals and involving moral turpitude for which his license to act as a cardroom employee may be suspended or revoked by the commission under RCW 9.46.075(4) and WAC 230-03-085(1), (2), and (8).

7. Second degree assault, fourth degree assault, and domestic violence are crimes involving physical harm or the threat of physical harm to other persons.

8. The Commission may suspend or revoke any and all licenses or permits of any holder who is subject to current prosecution or pending charges, or a conviction

which is under appeal, for any of the offenses included under subsection (4) of this section. RCW 9.46.075(9). The record of this proceeding establish by a preponderance of the credible evidence that the licensee is on probation or has final judicial dispositions pending for criminal acts for which his license to act as a cardroom employee may be suspended or revoked under RCW 9.46.075(9) and WAC 230-03-085(5).

9. The Commission may deny a license or permit to any applicant, or may suspend or revoke any and all licenses or permits of any holder, when the applicant or holder poses a threat to the effective regulation of gaming or creates or increases the likelihood of unfair or illegal practices, methods, activities in the conduct of gaming activities as demonstrated through the person's prior activities, criminal record, reputation, habits, or associations. WAC 230-03-085(8). The record of this proceeding establishes by a preponderance of the credible evidence that the licensee poses a threat to the effective regulation of gaming or creates or increases the likelihood of unfair or illegal practices, methods, activities in the conduct of gaming activities as demonstrated through the person's prior activities, criminal record, reputation, habits, or associations for which his license to act as a cardroom employee may be suspended or revoked under WAC 230-03-085(8).

10. To closely control all factors incident to the activities authorized in chapter 9.46 RCW, the provisions of the chapter shall be liberally construed to achieve such ends. RCW 9.46.010. The general public can find itself in a particularly vulnerable position should a person licensed to conduct gambling activities fail to discharge his occupation with a sense of justice and honesty. The evidence of the Commission has

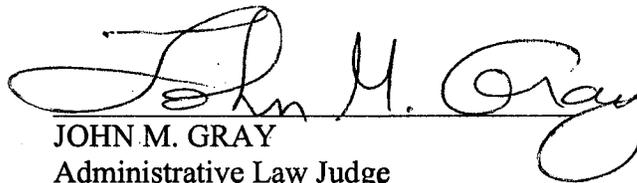
established that, in the public interest, the revocation of the license to act as a house-banked cardroom employee of the licensee, David V. Garrison, is the public interest.

From the foregoing conclusions of law, NOW THEREFORE,

INITIAL ORDER

IT IS HEREBY ORDERED That, in the public interest, the cardroom employee license of David V. Garrison, license number 68-14531, be and the same is hereby revoked.

DATED at Olympia, Washington, this 21<sup>st</sup> day of May, 2010.



JOHN M. GRAY  
Administrative Law Judge  
Office of Administrative Hearings

NOTICE TO THE PARTIES

*You may file an appeal of this order within twenty three days from the day OAH mails this initial order to you. WAC 230-17-090(2); see also WAC 230-17-030(2), WAC 230-17-035(2) [Service by first class mail is complete three days after mailing.]. An appeal from an initial order is known as a "petition for review". Your petition for review should (a) identify the parts of the initial order you disagree with and (b) 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 the Commission does not receive a petition for review within 23 days, the Commission will automatically make this order its final order.*

*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.*

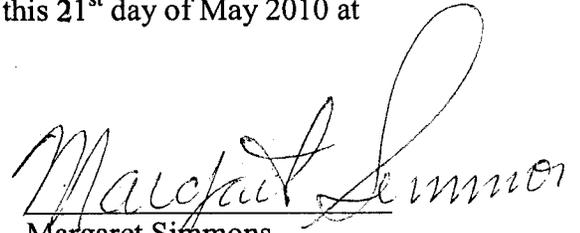
*Any party may file a cross appeal. Cross appeals must be filed with the commission within ten days of the date when the petition for review is filed with the*

*Commission. WAC 230-17-090(5). 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 party timely files a petition for review, then at least a majority of the Commission members shall review the petition within 120 days 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 21<sup>st</sup> day of May 2010 at Olympia, Washington.

  
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