

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Summary Suspension of the)
License to Operate Gambling Activities of:) NO. CR 2009-00926
)
)
Andy E. Shen,)
) **FINDINGS OF FACT,**
) **CONCLUSIONS OF LAW,**
) **AND ORDER OF SUMMARY**
Licensee.) **SUSPENSION OF LICENSE**

Pursuant to RCW 34.05.422(4), the Washington State Gambling Commission (Commission) may summarily suspend a license pending proceedings for revocation or other action. The Commission has authorized the Director to summarily suspend a license under RCW 9.46.070(17) and WAC 230-17-165.

This matter has been brought before the Director for a summary suspension of Andy E. Shen's Card Room Employee license, and the Director has issued this order and caused it to be served upon the licensee. This order shall be effective immediately upon its service to the licensee, authorized representative or agent thereof, unless otherwise specified herein. By this authority, an authorized agent of the Commission shall seize Andy E. Shen's current license authorizing gambling activity and his gambling activities shall cease as ordered.

FINDINGS OF FACT

I.

Rick Day is the Director of the Washington State Gambling Commission and issues this order in that capacity.

II.

Jurisdiction of this proceeding is based on Chapter 9.46 RCW, Gambling, Chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

III.

The Washington State Gambling Commission issued Andy E. Shen of Seattle, the following license: Number: 68-03713, Authorizing Card Room Employee Activity at Goldie's Casino, Shoreline.

The license, which expires on February 7, 2010, was issued subject to the licensee's compliance with state gambling laws and Commission rules.

IV.

After a thorough review of the Commission Special Agent's investigative report concerning the facts in this matter, the Director accepts the report as a verity and makes the determination that the action as ordered is warranted.

V.

SUMMARY:

The licensee, a shift supervisor, struck a patron in the face, knocking the patron off his chair and onto the floor during a poker game at Goldie's Casino (the licensee's employer). After this, Goldie's security staff forcibly restrained the licensee, who was playing poker while off-duty, and escorted him out of the building. Surveillance video recorded the incident and several witnesses, including the patron, provided written statements.

FACTS:

1) A Commission Special Agent (agent) completed a surveillance room inspection at Goldie's Casino, Shoreline on June 8, 2009. During his inspection, the agent discovered details about an assault that had previously occurred at the casino on May 2, 2009. The agent discovered that after the assault, the casino failed to notify Commission staff about the incident and failed to call the police.

2) The agent began investigating and on or about June 11, 2009, spoke with Gregg Owens, Goldie's surveillance manager. Mr. Owens said he was notified of the assault at about 4:30 a.m. on May 2, 2009. Mr. Owens reviewed surveillance video the day after the incident and told the agent:

- a. The licensee was playing poker at table number one at about 4:12 a.m. on May 2, 2009.
- b. The licensee was sitting next to Daniel, a patron.
- c. The licensee stood up and began yelling at Daniel.
- d. Nathan Nguyen, a poker floor supervisor, came over and tried to calm down the licensee. About one minute later, the licensee "pushed him [Daniel] in his face."
- e. Orlando Sullivan, a security officer, immediately pulled the licensee off Daniel.
- f. The licensee resisted Mr. Sullivan's attempt to remove him from the poker room until the licensee and the security officer both fell to the floor. Mr. Sullivan eventually forcibly removed the licensee from the poker room.

- g. The incident was reported to Michael Preston, Goldie's owner, but Mr. Preston never reported it to the Commission.
- h. He had no idea that Michael Preston had not notified the Commission.
- i. No one called the police.

3) The agent reviewed Goldie's surveillance incident report written by Melissa Lancaste, a surveillance operator. Ms. Lancaste stated the following in her report:

- a. She witnessed the altercation on surveillance cameras. The altercation occurred on May 2, 2009, at about 4:12 a.m.
- b. The licensee shoved Daniel "in the head then tried to hit him twice."
- c. Mr. Sullivan grabbed the licensee and they "went to the ground on west wall in poker room [*sic*]."
- d. The licensee cashed out his chips and was sent home.

4) The agent reviewed Goldie's security department's incident report completed by Orlando Sullivan, the security officer who subdued the licensee during the altercation on May 2, 2009. Mr. Sullivan stated the following in his report:

- a. At about 4:12 a.m. on May 2, 2009, he heard yelling in the poker room between the licensee and a customer.
- b. He noticed the licensee was upset but he thought the licensee was calming down, when "suddenly Andy attacked the customer."
- c. Another customer said the customer kept pushing the licensee's buttons by being rude.

5) The agent reviewed Goldie's incident report and a written statement completed by Nghi "Nathan" Nguyen, poker floor supervisor. Mr. Nguyen wrote the following in this report and in his statement:

- a. At about 4:14 a.m. on May 2, 2009, someone called him over to poker table number one, where the licensee was threatening Daniel.
- b. He tried to calm the licensee, "but all of a sudden Andy went after Daniel and pushed us to the ground."
- c. He called security officer, Orlando Sullivan, who entered the poker room "to throw Andy out of the side poker door."

- d. "I don't think Andy punched but he put his hands on Daniel's face."
- e. The licensee has never been violent before, but the licensee "crossed a line that as an employee should never do." [sic]
- f. He asked Daniel if he was okay and Daniel said he was "fine," but that he wanted something done.
- g. Goldie's house-banked shift manager, Joe Soukhamchay, told him he would handle the situation, and he left the job of calling the police to Mr. Soukhamchay.

6) The agent reviewed Goldie's house-banked shift manager, Joe Soukhamchay's, written statement. Mr. Soukhamchay wrote the following:

- a. Between about 4:00 and 4:15 a.m. on May 2, 2009, he noticed that Nghi "Nathan" Nguyen had called Orlando Sullivan, security officer, to the poker room.
- b. The licensee was having an altercation with Daniel, and "Andy then made physical contact with Daniel, knocking him off his chair."
- c. Orlando Sullivan pulled the licensee off Daniel to "stop any further contact."
- d. He tried to calm both the licensee and Daniel.
- e. Daniel told him he felt Andy was wrong for getting mad at him because he had not been talking to the licensee, and instead was talking about his losing hand.
- f. Daniel told him that the licensee had punched him in his face.
- g. After reviewing surveillance video, "it looked more like a push than a punch."
- h. He spoke with Linda Thatlor, poker dealer, and she said the licensee was in the wrong.

7) The agent reviewed the written statement completed by Linda Thatlor, poker dealer. Ms. Thatlor wrote the following:

- a. Between about 4:15 a.m. and 4:30 a.m. on May 2, 2009, she had dealt cards on table number one to the licensee and Daniel.
- b. When Daniel lost a hand, he was "whining."
- c. The licensee had been drinking and using foul language.
- d. The licensee told Daniel he was sick and tired of Daniel's complaining.

- e. "Andy got up and punched Daniel."
- f. Daniel said, "Linda, he hit me."
- g. Nathan Nguyen came over and tried to break up the disturbance, but the licensee hit Daniel anyway.
- h. She has not had any trouble with Daniel, but "Andy always runs his mouth when he drinks," and makes other players mad.
- i. She did not have a chance to tell the licensee to quit using the "F" word because it all happened so fast.
- j. The licensee was the cause of the bad situation. "I don't think Andy should set a bad example for other employees."

8) The agent interviewed the licensee. He told the agent that he wanted to use his fist to hurt Daniel but thought the better of it and just used his open hand to make contact with Daniel. The agent also reviewed a written statement completed by the licensee for Goldie's records. The licensee wrote:

- a. On May 2, 2009, he and Daniel had an altercation after Daniel lost a hand and Daniel was using bad words at the poker table and complaining about losing the hand.
- b. He got upset with Daniel and had "physical contact" with him.
- c. "During the altercation I Andy Shen have open hand contact with Daniel (around shoulder 'n' neck) to push him away." [*sic*]
- d. He met with Michael Preston and Sandy Epstein, Goldie's owners, and they asked him to apologize to Daniel.
- e. He was sorry for losing his temper and for putting Goldie's Casino in a bad spot. He wanted to apologize to Daniel.
- f. He has been licensed by the Commission for over ten years and has never broken any rules.

9) The agent reviewed the written statement completed by Daniel, the patron who was struck by the licensee. Daniel wrote:

- a. He was playing poker on May 2, 2009, at about 4:15 a.m. He lost a hand and began complaining to himself and using foul language.

- b. He and the licensee exchanged more foul language and the “conversation escalated badly.”
- c. The licensee wanted to go outside and fight him but he did not want to fight.
- d. The licensee shouted, “You want me to hit you so you can sue me!”
- e. Things got worse and after another exchange of profanity, “That’s where he snapped and pushed-punched me on my right side of my face (where it was partially swollen the next morning).”
- f. He reported the incident to Michael Preston but was never contacted by anyone at the casino.
- g. “I think Andy should not be able to have his gaming license because casino employees should never be able to hit a customer.”

10) The agent reviewed Goldie’s surveillance video of the incident and observed:

- a. The licensee played poker at poker table number one on May 2, 2009, at about 4:12 a.m.
- b. Daniel sat to the immediate left of the licensee.
- c. After a few hands of poker, the licensee’s physical gestures and body language appeared to be angry and confrontational.
- d. The licensee stood up and gestured toward Daniel. Daniel did not get up out of his seat or make any contact with the licensee.
- e. Nghi “Nathan” Nguyen, poker floor supervisor, placed himself in between the licensee and Daniel.
- f. Other patrons reached out to calm the licensee down. Suddenly the licensee leapt out of his chair and aggressively and forcefully gestured toward Daniel, who remained seated.
- g. Mr. Nguyen had both hands on the licensee’s shoulder and arm to try to keep him seated. The licensee pulled away and knocked Daniel off his chair, and then the licensee struck Daniel on the right side of his face with an open hand.
- h. Orlando Sullivan, security officer, approached the licensee quickly and forcefully grabbed him and pulled him off Daniel.
- i. The licensee resisted Mr. Sullivan until Mr. Sullivan overpowered him and forcibly removed him from the building.

- 11) As of July 20, 2009, the licensee continues to be employed by Goldie's Casino.
- 12) The agent has forwarded a case to the prosecutor for criminal charges of Assault in the Fourth degree.

CONCLUSIONS OF LAW

I.

- 1) RCW 9.46.070(17) provides that the Commission shall have the following powers and duties: The Commission may authorize the Director to temporarily suspend licenses subject to final action by the Commission.
- 2) WAC 230-17-165(2) provides that the Director may issue an order to summarily suspend any license if the Director determines that a licensee has performed one or more of the actions identified in RCW 9.46.075 as posing a threat to public health, safety, or welfare.
- 3) WAC 230-17-165(3)(a) provides that the Commission deems the following actions of a licensee constitute an immediate danger to the public safety and welfare: Failing or refusing to comply with the provisions, requirements, conditions, limitations, or duties imposed by chapter 9.46 RCW or any rules adopted by the Commission.

On May 2, 2009, the licensee, Andy E. Shen, struck a patron in the face and knocked the patron off his chair and onto the floor while playing poker during his off hours at Goldie's Casino (his employer). The licensee's actions constitute an immediate danger to public safety and welfare based on WAC 230-17-165(3)(a), and are a basis for immediate cessation of Mr. Shen's licensed activities.

- 4) RCW 9.46.075(1) provides the Commission may revoke any license for any reason or reasons, it deems to be in the public interest.
- 5) WAC 230-03-085(1) and (6) provide that the Commission may revoke a license of any licensee, when the licensee poses a threat to the effective regulation of gaming or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gaming activities as demonstrated by prior activities.
- 6) RCW 9.46.075(8) provides the Commission may revoke any license when a licensee fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter. RCW 9.46.153(1) provides that it shall be the affirmative responsibility of each licensee to establish by clear and convincing evidence the necessary qualifications for licensure.

On May 2, 2009, the licensee, Andy E. Shen, struck a patron in the face and knocked the patron off his chair and onto the floor while playing poker at Goldie's Casino.

Based on this, the licensee poses a threat to the effective regulation of gaming, or increases the likelihood of unfair or illegal practices as demonstrated by his prior activity of assaulting a patron while playing poker.

The licensee has also failed to establish clearly and convincingly, as required by RCW 9.46.153(1), that he is qualified to be licensed. Grounds, therefore, exist to revoke Andy S. Shen's license based on RCW 9.46.075(1) and (8), and WAC 230-03-085(1) and (6).

II.

Immediate cessation of Andy E. Shen's gambling activity is required for the protection and preservation of the safety and welfare of the public based on Mr. Shen's failure to comply with the provisions imposed by chapter 9.46 RCW or any rules adopted by the Commission pursuant to WAC 230-17-165(3)(a).

ORDER

Based on the FINDINGS OF FACT AND CONCLUSIONS OF LAW, it is the ORDER of the undersigned Director, based on the authority granted to him by RCW 9.46.070(17), RCW 34.05.422, and WAC 230-17-165, that Andy E. Shen's card room employee license within the State of Washington is hereby summarily suspended pending a formal hearing by an Administrative Law Judge.

This summary suspension will be effective immediately upon the service of this order to the licensee or an authorized representative or agent.

STATEMENT OF RIGHTS

1) **You have a right to petition for a stay of this Order.** You may request a stay by filing a written request with the Commission. **Any request for a stay must be received by the Commission within fifteen (15) days** of service of this Order upon you. If a timely request for a stay is received by the Commission, **a hearing regarding a request for stay will be conducted within seven (7) days** in accordance with WAC 230-17-170.

The stay hearing shall be limited to consideration of whether a stay should be granted, or whether the terms of the suspension may be modified. **Furthermore, at the hearing, the licensee shall have the burden of demonstrating by clear and convincing evidence that:**

- (a) The licensee is likely to prevail upon the merits at hearing;
- (b) Without relief, the licensee will suffer irreparable injury. For purposes of this section, elimination of income from licensed activities shall not be deemed irreparable injury;
- (c) The grant of relief will not substantially harm other parties to the proceedings; and

