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GAMBLING COMMISSION
COMM & LEGAL DIVISION

STATE OF WASHINGTON
GAMBLING COMMISSION

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GAMBLING COMMISSION
COMM & LEGAL DEPT

In the Matter of the Revocation of the)
License to Conduct Gambling Activities of:)
)
Andy E. Shen,)
)
Licensee.)
_____)

No. CR 2009-00926

SETTLEMENT ORDER

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HEADQUARTERS OFFICE OF
ADMINISTRATIVE HEARINGS

The Washington State Gambling Commission and the licensee, Andy E. Shen, agree to this Settlement Order to resolve the administrative charges pending against the licensee. H. Bruce Marvin, Assistant Attorney General, and Arlene Dennistoun, Staff Attorney, represent the Gambling Commission. Robert M. Tull and Dominique Y. Zervas-Foley, Attorneys at Law, Langabeer & Tull, P.S., represent the licensee.

I.

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.

II.

On July 30, 2009, the Director issued Findings of Fact, Conclusions of Law, and Order of Summary Suspension, seeking the revocation of Andy E. Shen's gambling license. On or about August 12, 2009, Commission staff received Mr. Shen's request for a hearing.

III.

The following summary of facts and Conclusions of Law were alleged in the Order of Summary Suspension, which the licensee acknowledges having received and reviewed:

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.

CONCLUSIONS OF LAW

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 E. Shen's license based on RCW 9.46.075(1) and (8), and WAC 230-03-085(1) and (6).

IV.

On July 30, 2009, the Director of the Commission summarily suspended Andy E. Shen's card room employee license authorizing Public Card Room Employee Activity. On August 12, 2009, the licensee, through his attorney, requested a hearing in this matter, and subsequently waived his right to an administrative hearing based on the entry of this Settlement Order. The licensee agrees to the following sanctions:

- 1) Mr. Shen agrees that he shall surrender his license, and shall not hold or reapply for a gambling license for a minimum of **eighteen (18) months** from the date of this Order.
- 2) In the event that Mr. Shen does reapply after the required time has lapsed, he shall be required to establish, by clear and convincing evidence, that he is qualified to hold a gambling license. Furthermore, Mr. Shen agrees that he shall not work in a supervisory or management capacity for **six (6) months** after obtaining a license. However, Mr. Shen shall be granted credit for the **three (3) month** period (between July 30 and October 30, 2009) when his license was summarily suspended and he was ordered to stop working as a card room employee. Mr. Shen, therefore, shall not work in a supervisory or management capacity for a total of **three (3) months** after obtaining a license.
- 3) In the event Mr. Shen reapplies for a gambling license, he will be subject to all the Commission's investigative procedures for processing an application for a gambling license. Furthermore, no promises or assurances have been made to Mr. Shen that he will receive a license from the Commission should he reapply. The Commission shall not base a denial of license based solely on the facts of this case, as alleged, unless Mr. Shen is criminally charged with assault as a result of the facts of this case, as alleged.

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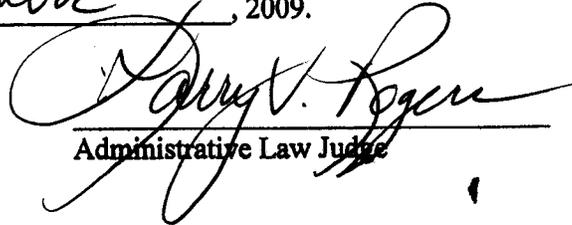
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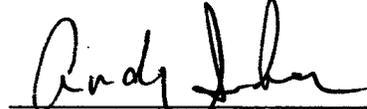
4) Andy E. Shen shall have no involvement, directly or indirectly, whether paid or unpaid, in the operation, ownership, or financing of any business in Washington State which is applying for, or holds, a gambling license or is involved with any gambling activity, including punchboard/pull-tab activity. However, this does not prevent Andy E. Shen from working in any capacity in any non-gambling activity, such as employment in restaurants located in establishments engaged in authorized gambling activity.

DATED this 30 day of November, 2009.


Administrative Law Judge

By his signature, the licensee understands and accepts the terms and conditions of this Order

APPROVED FOR ENTRY:

 11/11/09
Andy E. Shen Date
Licensee

APPROVED AS TO FORM:


H. Bruce Marvin, WSBA# 25152
Assistant Attorney General,
Representing the Washington State
Gambling Commission


Dominique Y. Zervas-Foley, WSBA #34098
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