

**STATE OF WASHINGTON  
GAMBLING COMMISSION**

In the Matter of the Summary Suspension of the )  
License to Conduct Gambling Activities of: )  
)  
)  
Tyson M. Clark )  
Kent, Washington, )  
)  
Licensee. )

NO. CR 2010-00061

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND ORDER OF SUMMARY  
SUSPENSION OF LICENSE**

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

This matter was brought before the Director for a summary suspension of Tyson M. Clark's Card Room Employee license. The Director issued this order and caused it to be served upon Mr. Clark. **This order shall be effective immediately upon its service to Tyson M. Clark,** authorized representative or agent of Mr. Clark's. By this authority, an authorized agent of the Commission shall seize Tyson M. Clark's current license authorizing Card Room Employee activity and his gambling activities will end 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 Tyson M. Clark, of Kent, the following Card Room Employee license:

Number: 68-15539, Authorizing Card Room Employee Activity at Silver Dollar Casino in Tukwila.

The license, which expires on January 17, 2011, was issued subject to the Card Room Employee'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:**

On October 9, 2009, the King County Prosecutor charged the licensee, Tyson M. Clark, with Assault 2<sup>nd</sup> Degree Substantial Bodily Harm. As of January 26, 2010, this charge is pending. Also in 2005, the licensee was charged and found guilty of Assault 4<sup>th</sup> Degree. The licensee did not disclose this conviction to the Commission.

**FACTS:**

- 1) On January 5, 2010, Tyson Clark renewed his gambling license. On his renewal application he checked "Yes" in the Criminal History Statement and attached a handwritten note stating that he was in a fight in September and he was going to court for it.
- 2) A Gambling Commission Special Agent (agent) reviewed Tyson Clark's criminal history and discovered a pending 2009 Assault 2<sup>nd</sup> Degree charge and a 2005 Assault 4<sup>th</sup> Degree conviction.
- 3) The agent obtained a copy of the Information and Probable Cause from King County Superior Court for Mr. Clark's pending 2009 Assault case. The Information charges Tyson Clark with Assault 2<sup>nd</sup> Degree, a felony. It alleges that on or about September 11, 2009, Mr. Clark intentionally assaulted a person and inflicted substantial bodily harm upon that person.
- 4) The Certification for Determination of Probable Cause included the following information:
  - a. Tyson Clark and his friend were in the restroom of a restaurant. A man (S.P.) entered the restroom and Tyson Clark and his friend started a verbal argument with S.P. stating in part, "we are going to kick your ass." S.P. did not know Tyson Clark or his friend and did not know why they were talking to him.
  - b. Tyson Clark's friend shoved S.P. and Tyson Clark punched S.P. in the face. Mr. Clark then grabbed S.P. by the head, pulled his head down, and kned him in the face with a martial arts style knee spike. S.P.'s face immediately swelled and bled significantly.

- c. A restaurant patron witnessed the assault, stepped in to protect S.P., and stopped the assault.
- d. S.P. went to a hospital with significant injuries to the right side of his face.
- e. There is probable cause that Tyson Clark assaulted S.P. in a restaurant causing substantial bodily harm, pain, and trauma when he punched and then kneed S.P. in the face.

5) The agent obtained a copy of the court docket and police report on the licensee's 2005 Assault 4<sup>th</sup> Degree arrest and conviction. In July 2005, Tyson Clark was charged with Assault 4<sup>th</sup> Degree because he caused physical harm to his roommate (A. H.) when he pinned A.H. against a wall and hit A.H. in the back of the head.

6) On January 26, 2006, Mr. Clark was convicted of Assault 4<sup>th</sup> Degree. Mr. Clark did not disclose his arrest or conviction on any of his renewal applications received by Commission staff since 2005.<sup>1</sup>

## CONCLUSIONS OF LAW

### I.

#### **RCW 9.46.070 Gambling Commission — Powers and duties**

The commission shall have the following powers and duties:

(The following subsection applies.)

(17) The Commission may authorize the Director to temporarily suspend licenses subject to final action by the Commission.

#### **WAC 230-17-165 Summary Suspensions**

(The following subsections apply.)

(2) The Commission delegates its authority to the Director to issue an order to summarily suspend any license or permit 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) The Commission deems the following actions of a licensee constitute an immediate danger to the public safety and welfare:

- (a) 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.

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<sup>1</sup> Commission staff received Tyson Clark's renewal applications on December 29, 2005, January 10, 2007, December 21, 2007, December 31, 2008, and January 5, 2010.

- (d) Being convicted of, or forfeiting of a bond on a charge of, or having pled guilty to:  
(vii) Any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude.

(f) Being subject to current prosecution or pending charges, or appealing a conviction for any of the offenses included under (d) of this subsection, including at (vii) Any crime, whether a felony or a misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude.

(h) Making a misrepresentation of, or failure to disclose, a material fact to the Commission.

On October 9, 2009, the King County Prosecutor charged the licensee, Tyson M. Clark, with Assault 2<sup>nd</sup> Degree Substantial Bodily Harm, a felony. On January 26, 2006, Mr. Clark was convicted of Assault 4<sup>th</sup> Degree, which he failed to disclose to Commission staff. The licensee's actions caused physical harm to individuals and constitute an immediate danger to public safety and welfare based on WAC 230-17-165(3)(a), (d), (f), and (h) and are a basis for immediate cessation of Mr. Clark's card room employee activities.

**RCW 9.46.075 Denying, suspending, or revoking an application, license or permit**

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. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein, (The following subsections apply.)

(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.

(4) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, willful 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;

(7) Makes a misrepresentation of, or fails to disclose, a material fact to the Commission.

(8) Fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter. RCW 9.46.075(1) provides the Commission may revoke any license or permit for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein any person with any interest therein: 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.

(9) Is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses included under section (4) of this section, including any crime, whether felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude. Provided, that at the request of an applicant for an original license, the Commission may defer decision upon the application during the pendency of such prosecution or appeal

**WAC 230-03-085 Denying, suspending, or revoking an application, license or permit**

We may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization,

(The following subsections apply.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(2) Has been convicted of, or forfeited bond on a charge of, or pleaded guilty to a misdemeanor or felony crime involving physical harm to individuals. "Physical harm to individuals" 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.

**RCW 9.46.153 Applicants and licensees- Responsibilities and duties**

(The following subsection applies.)

(1) It shall be the affirmative responsibility of each applicant and licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter, as well as the qualifications of the facility in which the licensed activity will be conducted.

Tyson Clark's previous Assault conviction and his pending Assault charge involve physical harm to individuals. Additionally, Mr. Clark failed to disclose his Assault 4<sup>th</sup> Degree conviction to the Commission. As a result, Mr. Clark has failed to prove by clear and convincing evidence that he is qualified to hold a license, in violation of RCW 9.46.153. Grounds, therefore, exist to revoke Tyson M. Clark's license based on RCW 9.46.075(1), (4), (7), (8), and (9), and WAC 230-03-085(1) and (2).

II.

Immediate cessation of Tyson M. Clark's card room employee activity is required for the protection and preservation of the safety and welfare of the public based on Mr. Clark'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 Tyson M. Clark's Card Room Employee licensee 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 Tyson M. Clark or an authorized representative or agent.**

### STATEMENT OF RIGHTS

**(1) You have a right to petition for a stay of this suspension.** You may request a stay by completing and returning to the Commission the enclosed Application for Stay Hearing **within fifteen (15) days** of service. If the Commission receives a timely request for a stay hearing, a hearing will be conducted within seven (7) days in accordance with WAC 230-17-170.

At the hearing, the only issues are whether the presiding officer: (a) Should grant a stay; or (b) Modify the terms of the suspension. At the stay 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; and
- (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; and
- (c) The grant of relief will not substantially harm other parties to the proceedings; and
- (d) The threat to the public safety or welfare is not sufficiently serious to justify continuation of the suspension, or that modification of the terms of the suspension will adequately protect the public interest.

A request for a stay does not constitute a request for a hearing on the revocation of your license as provided in paragraph (2) of this Statement of Rights.

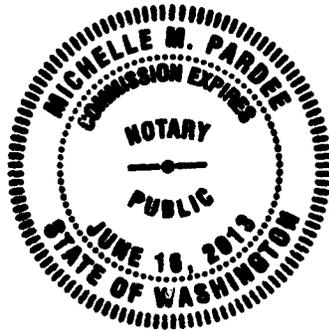
**(2) You also have a right to a full hearing on the merits in this matter.** You may request a hearing by completing and returning to the Commission the enclosed Application for Hearing **within twenty (20) days** of service. Failure to timely request a hearing shall result in a waiver of your right to a hearing and entry of an order in default revoking your license under RCW 34.05.440.

If the Commission receives a timely request for a hearing, a hearing shall be held no sooner than neither seven (7) days nor later than 90 days from the date of service; unless otherwise agreed to by the parties.

If you have questions regarding the rights stated above, please contact Paralegal, Michelle Pardee at (800) 345-2529 ext. 3465.

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF THURSTON )

Rick Day, being first duly sworn on oath, deposes and says: He has read this Order of Summary Suspension of Tyson M. Clark's license, knows the contents, and believes the same to be true, and that he is the duly appointed and qualified Director of the Washington State Gambling Commission and in that capacity has executed this Order of Summary Suspension of the card room employee license.



Rick Day  
RICK DAY, DIRECTOR

SUBSCRIBED AND SWORN TO before me  
this 4 day of February, 2010.

Michelle M Pardee  
NOTARY PUBLIC in and for the State of

Washington residing at: Lacey

My commission expires June 16, 2013.