

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:

JASON T. GOURD,

Licensee.

OAH No. 2010-GMB-0023

GC No. CR 2010-00189

INITIAL ORDER OF DISMISSAL
BASED ON DEFAULT

Administrative Law Judge John M. Gray conducted an administrative hearing in this matter on June 21, 2010, at the Gambling Commission Office, 4565 7th Avenue, Lacey, Washington.

Brian J. Considine, Assistant Attorney General, appeared and represented the Commission. Stephanie Beach, Special Agent with the Commission, appeared as a witness for the Commission. Bruce Marvin, Assistant Attorney General, observed.

Jason T. Gourd ("Mr. Gourd"), the Licensee, failed to appear.

On March 10, 2010, the Director of the Commission caused a Notice of Administrative Charges to be issued against Mr. Gourd. The Director alleged that Mr. Gourd failed to pay court ordered fines and fees, and that he currently owes \$4,809.78, of which \$3,809.78 has been sent to collection agencies due to nonpayment by Mr. Gourd.

The Commission duly notified Mr. Gourd of the time and the place of the administrative hearing. The Commission wished to establish a prima facie case, and offered seven (7) exhibits, which were admitted. Special Agent Stephanie Beach testified.

The Administrative Law Judge, having considered the evidence, now enters the following Findings of Fact:

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FINDINGS OF FACT

1. Jason T. Gourd holds a public card room employee license, No. 68-09360, issued by the Commission. That license will expire on February 3, 2011.

2. In January 2010, Mr. Gourd applied to renew his license. Special Agent Stephanie Beach investigated Mr. Gourd's criminal history and found that he had seven traffic infraction cases in which he had either failed to respond to a notice of infraction (FTR) or failed to appear for a scheduled hearing (FTA).

3. On December 11, 2003, Mr. Gourd was charged in Renton Municipal Court with violating RCW 46.30.020 (operating a motor vehicle without proof of insurance) and RCW 46.61.050 (failure to obey traffic control devices). The case number was IN0069443 RPD. The mitigation hearing was held on May 4, 2003, and a plea or response of "committed" was entered on both charges. Mr. Gourd was fined \$452, which he did not pay. That obligation was referred to Renton Collections on September 10, 2004, and transferred to Alliance One on September 22, 2005. The amount remains uncollected as of June 21, 2010.

4. On July 2, 2004, Mr. Gourd was charged in Renton Municipal Court with violating RCW 46.61.190 (failure to stop or yield at an intersection) and RCW 46.30.020 (operating a motor vehicle without proof of insurance). The case number was IN0077077 RPD. Mr. Gourd failed to respond to the notice of infraction, and the court entered a judgment of "committed" on both charges on July 27, 2004. Mr. Gourd was fined \$691, which he did not pay. That obligation was assigned to Renton Collections on September 10, 2004, and transferred to Alliance One on September 22, 2005. The amount remains uncollected as of June 21, 2010.

5. On July 19, 2004, Mr. Gourd was charged in Renton Municipal Court with violating RCW 46.61.190 (failure to stop or yield at an intersection). The case number was IN0081153 RPD. Mr. Gourd failed to respond to the notice of infraction, and the court entered a judgment of “committed” on August 10, 2004. Mr. Gourd was fined \$153, which he did not pay. That obligation was assigned to Renton Collections on October 12, 2004, and transferred to Alliance One on September 22, 2005. The amount remains uncollected as of June 21, 2010.

6. On December 30, 2004, Mr. Gourd was charged in Renton Municipal Court with violating RCW 46.30.020 (operating a motor vehicle without proof of insurance) and RCW 46.16.010(3) (failure to renew an expired vehicle registration). The case number was IN0085800 RPD. Mr. Gourd failed to respond to the notice of infraction, and the court entered a judgment of “committed” on January 26, 2005. Mr. Gourd was fined \$691, which he failed to pay. That obligation was assigned to Renton Collections on March 14, 2005, and transferred to Alliance One on September 22, 2005. The amount remains uncollected as of June 21, 2010.

7. On May 31, 2005, Mr. Gourd was charged in Pacific Municipal Court with violating RCW 46.61.688 (failure to wear a seat belt) and RCW 46.30.020 (operating a motor vehicle without proof of insurance). The case number was IO00026084 AGP. Mr. Gourd failed to respond to the notice of infraction, and the court entered a judgment of “committed” on June 17, 2005. Mr. Gourd was fined \$691, which he failed to pay. That obligation was assigned to Alliance One on August 22, 2005. The amount remains uncollected as of June 21, 2010.

8. On November 23, 2005, Mr. Gourd was charged in Snohomish County District Court, Southern Division, with violating RCW 46.30.020 (operating a motor vehicle without proof of insurance). The case number was I04534462 WSP. Mr. Gourd failed to respond to the notice of
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infraction, and the court entered a judgment of “committed” on January 3, 2006. Mr. Gourd was fined \$590, which he failed to pay. That obligation was assigned to Alliance One for collection on October 17, 2006. Mr. Gourd entered into a payment plan and paid, either voluntarily or involuntarily, a total of \$ 462.22 on the plan. As of October 15, 2009, Mr. Gourd was deemed to have defaulted on the payment plan. The balance remains uncollected as of June 21, 2010.

9. On July 26, 2007, Mr. Gourd was charged in King County District Court with violating RCW 46.20.342(1)(c) (driving while license suspended, 3rd degree). The case number was C00688208 WSP. Ultimately, Mr. Gourd pleaded guilty to a charge on March 2, 2009, and was fined \$248. The obligation was assigned to Alliance One for collection on May 26, 2009. Mr. Gourd entered into a payment plan, but was deemed to have defaulted on the plan as of October 15, 2009. The amount remains uncollected as of June 21, 2010.

10. On July 20, 2009, Mr. Gourd was charged in King County District Court with violating RCW 46.61.400 (establishing a basic speed rule and speed limits; in this instance, operating a motor vehicle 15 mph over the speed limit) and RCW 46.20.015 (driving without a license). The case number was IT0103621 KCP. Mr. Gourd failed to respond to the notice of infraction, and the court entered a judgment of “committed” on October 14, 2009. Mr. Gourd was fined \$756, which he failed to pay. That obligation was assigned to Alliance One for collection on December 1, 2009. The amount remains uncollected as of June 21, 2010.

11. Mr. Gourd owes \$4,809.78, of which \$3,809.78 has been referred to collection agencies. The Commission proposes to revoke Mr. Gourd’s public card room employee’s license because of his failure to pay the fines in his cases.

12. Mr. Gourd did not appear for the hearing scheduled for June 21, 2010 at 9 AM. The Commission and the undersigned Administrative Law Judge waited until 9:35 AM for Mr. Gourd to appear. The Commission presented a prima facie case. The undersigned Administrative Law Judge heard the prima facie case and found Mr. Gourd to have defaulted.

CONCLUSIONS OF LAW

From the foregoing Findings of Fact, the Administrative Law Judge now enters the following Conclusions of Law:

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.
2. During the time material hereto, the licensee, Mr. Gourd, has been the holder of a public card room employee license authorizing him 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. The public policy of the state of Washington on gambling is to keep the criminal element out of gambling and to promote the social welfare of the people by limiting the nature and scope of gambling activities and by strict regulation and control. All factors incident to the activities authorized in chapter 9.46 RCW shall be closely controlled, and the provisions of this chapter shall be liberally construed to achieve such end. RCW 9.46.010.
4. The Commission proved by a preponderance of the evidence that Mr. Gourd's

gambling license should be revoked because of his willful disregard for complying with
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ordinances, statutes, administrative rules, and court orders, at the state and local level. WAC 230-03-085(3).

5. The Commission proved by a preponderance of the evidence that Mr. Gourd's prior activities, criminal record, and habits pose a threat to the effective regulation of gambling, and creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities. WAC 230-03-085(8).

6. Each licensee has an affirmative responsibility 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). Mr. Gourd failed to appear at the administrative hearing and, consequently, failed to establish his qualifications for licensure at all.

7. 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. The general public can find itself in a particularly vulnerable position if a person licensed to conduct gambling activities fails to discharge his occupation with a sense of justice and honesty. The Commission's evidence has established that the revocation of Mr. Gourd's license to act as a public card room employee is in the public interest. Mr. Gourd has frequently disregarded his obligation to pay his traffic and criminal fines. His failure to pay his fines not only reflects on his unwillingness to comply with the traffic laws and the judicially imposed consequences of his misbehavior, but it also raises the question of his willingness to comply with the statutes and administrative rules relating to gambling.

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8. RCW 34.05.440(2) provides in relevant part: "If a party fails to attend or participate in a hearing or other stage of an adjudicative proceeding . . . the presiding officer may serve upon all parties a default or other dispositive order, which shall include a statement of the grounds for the order." Therefore, in the alternative, the Licensee, Jason T. Gourd, is in default for his failure to appear for the June 21, 2010, hearing.

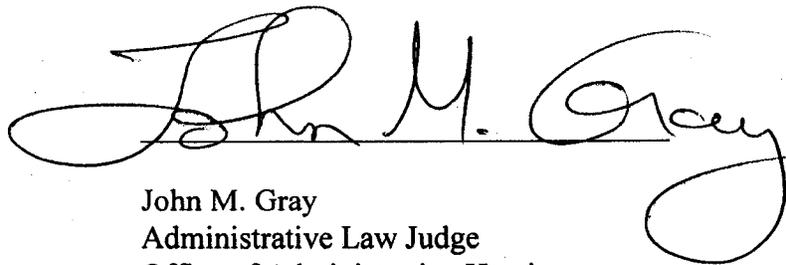
From the foregoing conclusions of law, NOW THEREFORE,

INITIAL ORDER

IT IS HEREBY ORDERED That the card room employee license of Jason T. Gourd be, and the same is, REVOKED.

Alternatively, the Licensee, Jason T. Gourd, is in DEFAULT. A request that this order be vacated must be filed within seven days of service of this order, stating the grounds relied upon. RCW 34.05.440(3).

DATED at Olympia, Washington, this 24th day of June, 2010.

A handwritten signature in black ink that reads "John M. Gray". The signature is written in a cursive style with a large, looping "G" at the end.

John M. Gray
Administrative Law Judge
Office of Administrative Hearings

NOTICE TO THE PARTIES

Initial orders must be entered in accordance with RCW 34.05.461(3). WAC 230-17-085(1). An initial order becomes the final order unless a party files a petition for review of the initial order as explained in WAC 230-17-090. WAC 230-17-085(2). RCW 34.05.464 governs the review of initial orders. WAC 230-17-090(1). Any party to an adjudicative proceeding may file a petition for review of an initial order. Parties must file the petition for review with us within twenty days

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of the date of service of the initial order unless otherwise stated. Parties must serve copies of the petition to all other parties or their representatives at the time the petition for review is filed. WAC 230-17-090(2). Petitions must specify the portions of the initial order the parties disagree with and refer to the evidence in the record on which they rely to support their petition. WAC 230-17-090(3). Any party to an adjudicative proceeding may file a reply to a petition for review of an initial order. Parties must file the reply with us within thirty days of the date of service of the petition and must serve copies of the reply to all other parties or their representatives at the time the reply is filed. WAC 230-17-090(4). Any party may file a cross appeal. Parties must file cross appeals with us within ten days of the date the petition for review was filed with us. WAC 230-17-090(5). Copies of the petition or the cross appeal must be served on all other parties or their representatives at the time the petition or appeal is filed. WAC 230-17-090(6). After we receive the petition or appeal, the commissioners review it at a regularly scheduled commission meeting within one hundred twenty days and make a final order. WAC 230-17-090(7).

Certification of Mailing

I certify that I mailed true and correct copies of the **Initial Order of Dismissal Based on Default** to the following parties, postage prepaid this 24th day of June 2010 at Olympia, Washington.


Margaret Simmons
Legal Secretary

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