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GAMBLING COMMISSION
COMM & LEGAL DIVISION

STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE GAMBLING COMMISSION

In the Matter of the Denial of the
Application for a License to Conduct
Gambling Activities of:

SOUPHAPHONE KEOPHILAVANH,

Licensee.

OAH No. 2010-GMB-0061
GC No. CR 2010-00969

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND INITIAL ORDER

I. ISSUE

1.1 Whether the Commission should revoke Mr. Keophilavanh's gambling license.

II. ORDER SUMMARY

2.1 The Commission shall revoke Mr. Keophilavanh's gambling license.

III. HEARING

3.1 **Administrative Law Judge:** Robert C. Krabill

3.2 **Licensee:** Souphaphone Keophilavanh

3.3 **Agency:** Washington State Gambling Commission (the "Commission")

3.3.1 **Department Representative:** Brian J. Considine, AAG

3.3.2 **Department Witness:** Special Agent Stephanie Beach

3.4 **Interpreter:** Rotchana Yandell

Mr. Keophilavanh may contact the interpreter for an oral translation at (208) 365-2622.

3.5 **Hearing Date:** December 13, 2010

3.6 **Hearing Location:** Gambling Commission Office, 4565 7th Avenue SE, Lacey, Washington

3.7 **Exhibits:** The Commission's Exhibits 1-6 and Mr. Keophilavanh's Exhibit 7 were presented and admitted to the record.

IV. FINDINGS OF FACT

I find the following facts more probable than not under the preponderance of the evidence standard:

Jurisdiction

4.1 Mr. Keophilavanh currently holds Public Card Room Employee gambling license number 68-03729. He applied to renew his license on or about August 16, 2010.

4.2 On October 27, 2010, the Director of the Commission issued a Notice of Hearing. The Notice alleged grounds for suspension or revocation of Mr. Keophilavanh's gambling license under RCW 9.46.075(1), RCW 9.46.075(8), WAC 230-03-085(1), WAC 230-03-085(3), and WAC 230-03-085(8).

Court Fines

4.3 On February 27, 2005, the King County District Court convicted Mr. Keophilavanh of Driving Under the Influence (DUI) in violation of RCW 46.61.502. It assessed a fine of at least \$5460.30.

4.4 On May 1, 2008, the Evergreen District Court of Snohomish County convicted Mr. Keophilavanh of DUI in violation of RCW 46.61.502. It assessed a fine of at least \$1363.70. He served a jail sentence after the second conviction. While on work release, he stopped making payments. On August 4, 2009, the Evergreen District Court entered a failure to appear based on his failure to make the periodic payment for July.

4.5 Mr. Keophilavanh has made payment plans, but, despite a steady income from gambling related employment, he has not kept them. He has made no payments whatsoever since July 2009. Based on a friend's advice, Mr. Keophilavanh believed he only needed to pay if he wanted his driver's license back. Because he decided to go without his driver's license, he thought he did not need to pay his fines. So, he did not resume payments after his release from jail.

4.6 He still owes \$5460.30 principal on the King County fine and \$1363.70 principal on the Snohomish County fine. The courts transferred the fines to Alliance One collection agency. With interest, he owes \$9821.90.

4.7 The Commission considers the \$6824 in outstanding criminal fines willful disregard of a court order. If Mr. Keophilavanh could keep a payment plan and

reduce the outstanding balance below \$3000, it probably would not consider the remaining debt a willful disregard of a court order.

Mr. Keophilavanh's Circumstances

4.8 As a result of the Commission's notice to his most recent employer, Royal Casino in Everett, it laid him off in August. He has not worked since. Instead, he receives unemployment benefits of \$171 per week.

4.9 Mr. Keophilavanh has two adult children. He still owes \$48,000 in back child support for them. He ran up that large debt when he was not working for 12 years and, instead caring for his aged parents. Garnishment for child support consumes approximately \$125 per pay period when he is working.

4.10 Mr. Keophilavanh has few work skills outside of card dealing.

V. CONCLUSIONS OF LAW

Based on the foregoing findings of fact, I make the following conclusions of law:

Jurisdiction

5.1 I have jurisdiction over in this matter under RCW 9.46.140; Chapter 34.05 RCW and Title 230 WAC.

Suspension or Revocation

5.2 The Commission may suspend or revoke a gambling license for any reason it deems to be in the public interest. RCW 9.46.075. Among those reasons is when a licensee has violated Chapter 9.46 RCW or the Commission's rules. RCW 9.46.075(1). The Commission may suspend or revoke a gambling license for any act that constitutes grounds for suspension or revocation under RCW 9.46.075. WAC 230-03-085(1). The Commission may suspend or revoke a gambling license when the licensee "has demonstrated willful disregard for complying with local, state, or federal "ordinances, statutes, administrative rules, or court orders". WAC 230-03-085(3). The Commission may suspend or revoke a gambling license whenever the license fails to prove by clear and convincing evidence that he is qualified under RCW 9.46.075(8). Finally, the Commission may suspend or revoke a gambling license poses a threat to the effective regulation of gambling. WAC 230-03-085(8).

5.3 Here, two Washington courts have ordered Mr. Keophilavanh to pay fines after criminal convictions. He has made and broken payment plans and stopped

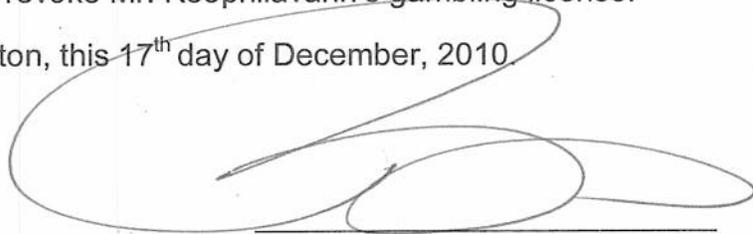
paying altogether for over a year despite regular employment. Although Mr. Keophilavanh has a large child support debt, it was not so great that he could not make and keep a reasonable payment plan. The size of his court fine debt and failure to pay arise to willful disregard of court orders. Because he has willfully disregarded court orders, the Commission can and should revoke his license under WAC 230-03-085(3). Because he has willfully disregarded court orders, he has failed to prove by clear and convincing evidence that he is qualified to hold a gambling license; therefore, the Commission can and should revoke his license under RCW 9.46.075(8). Because the Commission should revoke his license under RCW 9.46.075(8), it can revoke his license under WAC 230-03-085(1) also. Until the claimant demonstrates compliance with the court orders to pay fines, he poses a threat to the effective regulation of gambling, so the Commission can revoke his license under WAC 230-03-085(8). However, Mr. Keophilavanh has not violated Chapter 9.46 RCW or the Commission's rules, so the Commission cannot revoke his license under RCW 9.46.075(1). Therefore, the Commission can and should revoke his license under WAC 230-03-085(3), RCW 9.46.075(8), WAC 230-03-085(1), and WAC 230-03-085(8).

VI. ORDER

IT IS HEREBY ORDERED:

6.1 The Commission shall revoke Mr. Keophilavanh's gambling license.

DATED at Olympia, Washington, this 17th day of December, 2010.



Robert C. Krabill
Administrative Law Judge
Office of Administrative Hearings

NOTICE TO THE PARTIES

Under the Washington State Gambling Commission Rules, WAC 230-17-035 and WAC 230-17-090, you have twenty-three days from the date this initial order was mailed to file an appeal of this order known as a "petition for review". The petition for review should specify the parts of the initial order which you disagree with and should 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 a petition for review is not received by the Gambling Commission within 23 days of the date this initial order was mailed, the Commission will automatically adopt this order, and it will thereby become final.

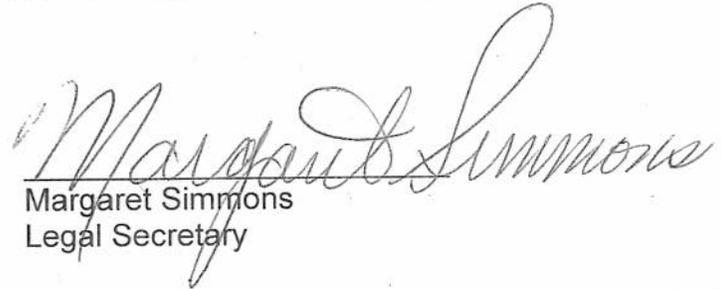
Any party may file a written response to a petition for review, known as a reply. If you wish to file a reply, it must be filed with the Commission within thirty days of the date you are served with the petition. You must serve copies of the reply on all parties or their representatives at the same time 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 was filed with the Commission, under WAC 230-17-090 and WAC 230-17-040. 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 petition for review is timely filed with the Commission, then the Commission shall review the petition within 120 days after the petition is filed and render a final order.

Mailing Certification

I certify that I mailed the **Findings of Fact, Conclusions of Law and Initial Order** to the following parties, postage prepaid this 17th day of December 2010 at Olympia, Washington.



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Legal Secretary

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