

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Summary Suspension of the)
License to Conduct Gambling Activities of:)
Cheng K. Lee)
Silverdale, Washington,)
Licensee.)

NO. CR 2010-00648

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

RCW 9.46.070(17) authorizes the Washington State Gambling Commission (Commission) to summarily suspend¹ a license subject to final action by the Commission. The Director has reviewed this Order of Summary Suspension and has issued it for service.

This order takes effect when served on the licensee, his representative, or agent. A Commission Special Agent shall seize Cheng K. Lee's license and Mr. Lee must stop conducting gambling activities.

FINDINGS OF FACT

I.

Rick Day is Director of the Washington State Gambling Commission and issues this order. Jurisdiction of this proceeding is based on chapter 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and Title 230 WAC.

II.

The Washington State Gambling Commission issued Cheng K. Lee the following license:

Number 68-25199, authorizing Card Room Employee activity with Casino Caribbean in Kirkland and Macau Casino in Lakewood.

The license expires on May 24, 2011, and was issued subject to the licensee's compliance with state gambling laws and rules.

¹ WAC 230-17-165 defines summary suspension as immediately taking a license or permit from a person or organization which prevents them from operating or conducting gambling activities.

III.

After a thorough review of the report by a Commission Special Agent about the facts in this matter, the Director accepts the report as true and has determined that the summary suspension is necessary.

IV.

SUMMARY:

Cheng K. Lee admitted to stealing \$15,620 from a safe at the restaurant where he was the manager and gambling with the money in the hopes of winning back previous gambling losses. The licensee was charged with First Degree Theft and is currently in a diversion program.

FACTS:

1) On January 22, 2010, Richard Gates, owner of The Play Pen, in Lacey, discovered money was missing from the business' safe. The licensee is Mr. Gates' brother-in-law, and because the licensee was the manager at The Play Pen, he knew the combination to the safe. Mr. Gates confronted the licensee about the missing money, and the licensee admitted that he took \$15,620 and said he would pay it back.

2) On January 23, 2010, Mr. Gates reported the theft to the Lacey Police Department. Mr. Gates told a Lacey Police Officer (officer) that the licensee has a gambling problem and the licensee admitted to taking the money. After talking to Mr. Gates, the officer contacted the licensee by telephone. The licensee admitted that he took the money, he lost it gambling, he was sorry for taking the money, and he had a gambling problem.

3) On February 2, 2010, the licensee met with the officer and admitted:

- a) He knows the combination to the safe at the Play Pen.
- b) On January 21, 2010, he took \$15,620 from the safe.
- c) He took the money because he had lost his own money gambling and was behind on his bills.
- d) He gambled the \$15,620 hoping to win back all the money he had previously lost while gambling.
- e) He lost the money while gambling at the Macau Casino and he had receipts showing that he gambled and lost the money.

- 4) On February 10, 2010, the following was filed in Thurston County Superior Court:
- a) Information charging the licensee with First Degree Theft.
 - b) Determination of Probable Cause and Order for Summons for Appearance. This states that probable cause exists to issue a summons for the licensee to appear in court.

5) On April 22, 2010, in the Declaration of Defendant Waiver of Jury Trial, Stipulation to Facts Sufficient for Guilt, the licensee entered into a diversion program. If the licensee successfully completes the program, the court will dismiss the charges against him. One requirement of the program is to complete Gambling Anonymous classes.

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 Commission delegates its authority to the Director 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)** The Commission deems the following actions of a licensee constitute an immediate danger to the public safety and welfare:
(The following subsections apply.)
- (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; or
 - (f) Being subject to current prosecution or pending charges, or appealing a conviction, for any of the offenses included under (d)² of this subsection.

The licensee has a pending First Degree Theft³ charge. The licensee admitted he stole \$15,620 and gambled the money hoping to win enough money to cover his previous gambling losses.

² WAC 230-17-165(3)(d)(ii) Being convicted of, or forfeiting of a bond on a charge of, or having pled guilty to Larceny.

³ RCW 9A.56.030 Theft in the first degree — Other than firearm or motor vehicle. (1) A person is guilty of theft in the first degree if he or she commits theft of: (a) Property or services which exceed(s) five thousand dollars in value other than a firearm as defined in RCW 9.41.010; (b) Property of any value, other than a firearm as defined in RCW 9.41.010 or a motor vehicle, taken from the person of another; or (c) A search and rescue dog, as defined in RCW 9.91.175, while the search and rescue dog is on duty. (2) Theft in the first degree is a class B felony.

The licensee's actions constitute an immediate danger to public safety and welfare based on WAC 230-17-165(3)(a) and (f), and are a basis for Cheng K. Lee to immediately stop conducting gambling activities.

4) RCW 9.46.075 Denial, suspension, or revocation of license, application, 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.

(8) Fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter.

(9) Is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses included under subsection (4)⁴ of this section: 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.

5) WAC 230-03-085 Denying, suspending, or revoking an application, license or permit.

(The following subsections apply.)

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:

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

(8) Poses a threat to the effective regulation of gambling, or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by: (a) Prior activities; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e) Associations.

⁴ RCW 9.46.075(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.

6) RCW 9.46.153(1) Applicants and licensees-Responsibilities and duties.

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.

The licensee's actions of stealing \$15,620 to gamble in the hopes of winning enough money to make up for previous gambling losses and his pending criminal charges of First Degree Theft demonstrate that the licensee poses a threat to the effective regulation of gaming, or increases the likelihood of unfair or illegal practices.

Cheng K. Lee has failed to establish clearly and convincingly that he is qualified to be licensed, as required by RCW 9.46.153(1). As a result, grounds exist to revoke Cheng K. Lee's license based on RCW 9.46.075(1), (8), and (9), and WAC 230-03-085(1) and (8).

II.

Cheng K. Lee's actions are an immediate danger to public safety and welfare, and he has failed to comply with chapter 9.46 RCW or Commission rules. The immediate suspension of Mr. Lee's gambling license is required to protect public safety and welfare.

ORDER

Based on the FINDINGS OF FACT AND CONCLUSIONS OF LAW and the Director's authority under RCW 34.05.422, RCW 9.46.070(17), and WAC 230-17-165, the Director orders that Cheng K. Lee's license is summarily suspended, pending a formal hearing by an Administrative Law Judge.

STATEMENT OF RIGHTS

(1) **You may ask for a stay of this Order.** To do so, you must complete and return to the Commission the enclosed Application for Stay Hearing form within fifteen (15) days from the date you receive this Order. If the Commission receives a timely request, we will hold a hearing within seven (7) days as required by WAC 230-17-170(3). The stay hearing will determine if your suspension should continue, or whether the suspension may be modified.

At the stay hearing, you will have to prove by clear and convincing evidence that:

- (a) You will likely win at hearing; and
- (b) If your suspension continues, you will suffer serious injury. Under this section, loss of income from licensed activities is not considered serious injury; and
- (c) Removing the immediate suspension will not hurt others in this case; and
- (d) The threat to the public safety or welfare does not justify continuing the suspension, or that modifying the suspension will adequately protect the public.

