

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the)	NO. CR 2010-00607
License to Operate Gambling Activities of:)	
)	AMENDED NOTICE OF
Ratpaja Phetmixay)	ADMINISTRATIVE CHARGES
Pasco, Washington,)	AND OPPORTUNITY FOR AN
)	ADJUDICATIVE PROCEEDING
Licensee.)	<i>Amendments are in italics.</i>

I.

The Washington State Gambling Commission issued Ratpaja Phetmixay the following license: Number 68-13841, Authorizing Card Room Employee Activity with Cable Bridge Casino in Kennewick.

The Commission issued this license, which expires on May 13, 2011, subject to the licensee's compliance with state gambling laws and Commission rules.

II.

Rick Day, Director of the Washington State Gambling Commission, charges the licensee with the following violations of the Washington State Gambling Act, 9.46 RCW, WAC Title 230:

SUMMARY:

On June 4, 2009, Ratpaja Phetmixay pled guilty to Third Degree Assault, a felony. This is a crime of physical harm to an individual and stems from an unprovoked fight that resulted in the victim suffering a concussion and extensive bruising. *Police officers described the fight as a gang-style assault.*

Mr. Phetmixay admitted to being a member of the "Crips" gang and the other people involved in the assault admitted to being members of the gang "Oriental Loco Bloods."

Mr. Phetmixay failed to timely disclose his Second Degree Assault charge and his Third Degree Assault conviction. Mr. Phetmixay misrepresented his criminal history when he disclosed on his renewal application that he was convicted of Fourth Degree Assault.

FACTS:

1) In April 2009, Ratpaja Phetmixay renewed his gambling license and disclosed that in October 2008, he was charged with two counts of Assault in the Second Degree. *This was over 30 days from when he was charged, in violation of WAC 230-06-085(1).*

- 2) In April 2010, Ratpaja Phetmixay renewed his gambling license and disclosed that in May 2009 he was convicted of Fourth Degree Assault. *This was over 30 days from when he was convicted, in violation of WAC 230-06-085(2). The agent later determined that Mr. Phetmixay was actually convicted of Third Degree Assault. Therefore, Mr. Phetmixay misrepresented his criminal history on his April 2010 renewal application.*
- 3) A Commission Special Agent (*agent*) reviewed Ratpaja Phetmixay's criminal history and obtained court documents filed in Benton County Superior Court about Mr. Phetmixay's Assault charge and conviction.
- 4) The information, filed in October 2008, charged Mr. Phetmixay with two counts of Second Degree Assault and states that Mr. Phetmixay intentionally assaulted Jonathan A. and Mark H. by recklessly inflicting substantial bodily harm causing the individuals to each suffer a concussion and extensive bruising.
- 5) The Motion for Arrest/Detention (Probable Cause) included the following information:
 - a) On October 18, 2009, a pregnant woman (Megan H.) was vomiting outside a business. Five men (including Mr. Phetmixay) who did not know Megan H. approached her and harassed her for being sick.
 - b) Megan's husband, Mark H., told the men to leave Megan H. alone. The men hit Mark H., threw him to the ground, and kicked him in the head and torso.
 - c) Megan H.'s sister tried to stop the men from beating Mark H., but the men grabbed her hair and threw her back.
 - d) Jonathan A., who did not know any of the parties, intervened to stop the men from attacking Mark H. The men hit and kicked Jonathan A. until he was unconscious. The men left the scene.
 - e) Mark H. and Jonathan A. were taken to the hospital and each was treated for a concussion and extensive bruising.
 - f) Police stopped the vehicle the men were in, and the men tried to flee; however, the police caught the men.
 - g) The men said they were members of a criminal gang called "Oriental Loco Bloods" and had clothing and tattoos indicating they were members of the gang.
 - h) Mark H. and numerous unaffiliated witnesses identified the men involved in the attack.
- 6) On June 4, 2009, an Amended Information was filed in Benton Superior Court and the charge against Mr. Phetmixay was changed to one count of Third Degree Assault. It states that Mr. Phetmixay "with criminal negligence did cause bodily harm accompanied by substantial pain that extended for a period sufficient to cause considerable suffering hit and kicked Mark H. causing a concussion."

- 7) On June 4, 2009, Ratpaja Phetmixay pled guilty to Third Degree Assault, a felony. In the Statement of Defendant on Plea of Guilty, Ratpaja Phetmixay stated, "On 10/18/08 in Benton County I & others, through criminal negligence injured another person in a physical confrontation."
- 8) On July 30, 2009, the Felony Judgment and Sentence was filed in Benton County Superior Court and Ratpaja Phetmixay was found guilty on Third Degree Assault. Mr. Phetmixay was sentenced to 30 days confinement and 12 months of community supervision.
- 9) *The agent reviewed the Richland Police Department's report of the assault that Mr. Phetmixay was involved in. The police report included the following information:*
- a) *On October 18, 2009, officers responded to a report that multiple males were assaulting a man and the victim was "... on the ground being kicked in the head."*
 - b) *An officer spoke to a girlfriend of one of the victim's while she was at the hospital with the victim. The girlfriend was reluctant to give a statement to the officer. She was fearful the suspects might retaliate against her because they belonged to an "Asian gang."*
 - c) *Officers stopped the vehicle the suspects were in and the driver remained in the vehicle and four suspects tried to hide in front of the vehicle.*
 - d) *Mr. Phetmixay was one of the suspects crouched in front of the vehicle. When the officer arrested him, Mr. Phetmixay gave the officer a false name. After further questioning, Mr. Phetmixay eventually told the officer his true name.*
 - e) *Mr. Phetmixay told the officer that he was sleeping in the car because he was drunk and tired and denied being involved in or any knowledge of a fight.*
 - f) *The officer noticed blood on Mr. Phetmixay's right pant leg and when asked about it, Mr. Phetmixay said did not know how the blood got on his pants and denied being in a fight.*
 - g) *Police officers described the fight as a gang-style assault. Mr. Phetmixay told the officer he was a "Crip" from Visalia, California and the other suspects were in a gang called "Oriental Locos Blood." Mr. Phetmixay was hanging out with "Bloods" because they were family."*
 - h) *Once at jail, the officer took Mr. Phetmixay's clothes and shoes, and the officer noticed that there was blood on Mr. Phetmixay's toe.*
 - i) *Another officer at the jail noticed blood on Mr. Phetmixay's big toe and said it looked like Mr. Phetmixay split his toe when he was kicking the victim. Mr. Phetmixay grinned and shrugged his shoulders.*
 - j) *Two of the suspects had had gang-related tattoos.*
 - k) *Mr. Phetmixay had some tattoos, but they did not appear to be gang-related.*

VIOLATIONS:

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

The Commission may 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.

(11) Is a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates probable cause to believe that the association is of such a nature as to be inimical to the policy of this chapter or to the proper operation of the authorized gambling or related activities in this state. For the purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain utilizing such methods as are deemed criminal violations of the public policy of this state. A career offender cartel shall be defined as any group of persons who operate together as career offenders.

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

We may 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; or

(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.

(7) *Fails to provide us with any information required under Commission rules within the time required, or, if the rule establishes no time limit, within thirty days after receiving a written request from us.*

(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.

WAC 230-06-085 Report criminal actions filed.

(1) Licensees must report to us in writing within thirty days all criminal actions filed against the licensee, any manager of the licensed gambling activity, the business organization, or any person holding a substantial interest in the business organization.

(2) We must receive a copy of the final written decision or settlement within thirty days after the case is resolved.

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.

Ratpaja Phetmixay:

a) Pled guilty to Third Degree Assault, a felony. This is a crime of physical harm to an individual and stems from an unprovoked fight that resulted in the victim suffering a concussion and extensive bruising. *Police officers described the fight as a gang-style assault.*

b) Has failed to prove by clear and convincing evidence that he is qualified to hold a Card Room Employee license, as required by RCW 9.46.153.

c) Poses a threat to the effective regulation of gambling as demonstrated by his *associations*, prior activities, and criminal history.

d) *Failed to timely disclose criminal charges filed against him and his criminal conviction of Third Degree Assault, in violation of WAC 230-06-085.*

e) *Misrepresented his criminal history on his April 2010 renewal application.*

f) *Admitted to being a member of a gang and associating with other gang members. Because Mr. Phetmixay is a member of a career offender cartel¹ or an associate of a career offender cartel, probable cause exists to believe that the association is of such a nature as to be inimical to the policy of this chapter or to the proper operation of the authorized gambling or related activities in this state.*

¹ *Members of gangs, including the "Crips," have been involved with crimes involving homicide, extortion, drug, and other violent crimes. Therefore, gangs are considered career offender cartels.*

Grounds exist to revoke Ratpaja Phetmixay's Card Room Employee license under RCW 9.46.075(1), (4), (7), (8), and (11), and WAC 230-03-085(1), (2), (7), and (8).

III.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

The licensee will have the opportunity to have a hearing on the alleged violations.

Based on RCW 34.05.440, failure to return a request for hearing will result in the entry of a default order REVOKING your license.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

Rick Day, being duly sworn on oath, says: That he has read this Amended Notice of Administrative Charges and Opportunity for An Adjudicative Proceeding, knows the contents of it, believes it to be true, that he is the Director of the Washington State Gambling Commission, and in that capacity has executed said Notice.

Rick Day
RICK DAY, DIRECTOR

STATE OF WASHINGTON)
) ss
COUNTY OF THURSTON)

SUBSCRIBED AND SWORN TO before me
this 10 day of August, 2010.

Michelle M. Fardoe
NOTARY PUBLIC in and for the State of

Washington residing at Wacey

My commission expires on June 16, 2013

I hereby certify that I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy thereof, properly addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 10th day of August, 2010

Maxwell Prebble
Communications and Legal Department
Washington State Gambling Commission

