

**STATE OF WASHINGTON
GAMBLING COMMISSION**

In the Matter of the Summary Suspension of the)
License to Conduct Gambling Activities of:)
)
)
Garry B. Roth)
Longview, Washington,)
)
Licensee.)

NO. CR 2010-01315

**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, representative, or agent. A Commission Special Agent shall seize Garry B. Roth's license and he must immediately stop conducting gambling activities.

FINDINGS OF FACT

I.

Rick Day is the 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 WAC Title 230.

II.

The Washington State Gambling Commission issued Garry B. Roth, of Longview, the following Card Room Employee license:

Number 68-21903, authorizing Card Room Employee activity at Chips Casino, and at Palace Casino in La Center.

The license, which expires on July 2, 2011, was issued subject to the Card Room Employee's compliance with state gambling laws and Commission 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 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.

IV.

SUMMARY:

On December 8, 2010, the licensee, Garry B. Roth, was convicted of Felony Harassment – Threat to Kill (Domestic Violence), and Malicious Mischief in the Third Degree. The licensee is on probation until December 2012. The conviction was based on the licensee's conduct occurring on October 23, 2010, involving a licensed card room employee (alleged victim) at Cadillac Island Casino, a licensed card room.

FACTS:

- 1) In early November 2010, a Gambling Commission Special Agent (agent) received an anonymous tip that the licensee was in the Cowlitz County jail for a pending third degree malicious mischief and a felony harassment charge. The agent obtained and reviewed the police report and certified court records related to Mr. Roth's criminal charges.
- 2) On October 27, 2010, Mr. Roth was charged by Information, issued by the Cowlitz County Prosecuting Attorney, for conduct occurring on October 23, 2010, with Malicious Mischief in the Third Degree, and Felony Harassment – Threat to Kill (Domestic Violence). The Information alleges the licensee knowingly threatened to cause bodily injury, immediately or in the future, to the person threatened, and by words and conduct placed the threatened person in reasonable fear that the threat would be carried out, and the threat was a threat to kill. The Probable Cause Statement confirmed the following information contained in the police report:
 - a. A Longview Police Officer (officer) arrived at Cadillac Island Casino to respond to a report that the licensee had damaged property after he had been asked to leave the casino.
 - b. The officer met with Terry Doty, a casino employee. Mr. Doty told the officer that the licensee was a regular patron who had come to the casino to speak with another employee who is the licensee's ex-girlfriend.
 - c. Mr. Doty had asked the licensee to leave because he had become a distraction to his ex-girlfriend who was working at a card table while the licensee was trying to have a personal conversation with her.
 - d. Mr. Doty said when the licensee left the casino, the licensee pushed an exterior hard enough to cause damage, then began hitting and kicking a cigarette stand, also causing damage.

e. The officer spoke with the licensee's ex-girlfriend. She said the licensee left threatening voicemails on her phone and let the officer hear a message. The officer heard a male voice say, "I'll f***ing kill you," three times. The ex-girlfriend told the officer she was afraid the licensee would kill her, and that he was violent and had damaged her property in the past.

f. The officer contacted the licensee at his residence. The licensee said he left the message but he said he wasn't really going to kill the girlfriend.

3) The licensee was booked into the Cowlitz County jail on October 23, 2010. The licensee plead guilty and was sentenced on December 8, 2010. The licensee is on probation until December 2012.

4) As of December 8, 2010, the licensee has not disclosed his October 23 arrest, or the criminal charges filed against him on October 27, to the Commission.

CONCLUSIONS OF LAW

I.

1) **RCW 9.46.070** 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

(d)(vii) Being convicted of, or forfeiting of a bond on a charge of, or having pled guilty to any crime, whether a felony or 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.

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.

(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.

5) 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.

(5) Is serving a period of probation or community supervision imposed as a sentence for any juvenile, misdemeanor, or felony criminal offense, whether or not the offense is covered under RCW 9.46.075(4).

(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.

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.

(7) **WAC 230-06-085(1)** provides 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.

On October 27, 2010, the Cowlitz County Prosecutor charged the licensee, Garry B. Roth, with Felony Harassment – Threat to Kill (Domestic Violence), and Malicious Mischief in the Third Degree. The Information alleges the licensee knowingly threatened to cause bodily injury, immediately or in the future, to the person threatened, and by words and conduct placed the threatened person in reasonable fear that the threat would be carried out, and the threat was a threat to kill.

The licensee plead guilty to the Felony Harassment – Threat to Kill charge, which is a crime of moral turpitude. The licensee failed to disclose the material fact of his October 23, 2010, arrest and the criminal charges filed against him on October 27, within 30 days, as required by WAC 230-06-085, to the Commission. The licensee's actions constitute an immediate danger to public safety and welfare based on WAC 230-17-165(3) (a), (f), and (h), and are a basis for immediate cessation of Mr. Roth's card room employee activities.

The licensee has also 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 Garry B. Roth's license based on RCW 9.46.075(1), (4), (7), and (8), and WAC 230-03-085(1), (2), (5), (7) and (8).

II.

Garry B. Roth's actions constitute an immediate danger to public safety and welfare. Mr. Roth has failed to comply with chapter 9.46 RCW and Commission rules. The immediate suspension of Garry B. Roth's gambling activity is required to protect and preserve public safety and welfare.

ORDER

Based on the FINDINGS OF FACT AND CONCLUSIONS OF LAW, and the Director's authority under RCW 9.46.070(17), RCW 34.05.422, and WAC 230-17-165, the Director orders that Garry B. Roth's licensee is summarily suspended pending a formal hearing by an Administrative Law Judge for the revocation of his license.

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

