

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Summary Suspension of the)
License to Operate Gambling Activities of:) NO. CR 2011-01505
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)
Arik Goldsmit) **FINDINGS OF FACT,**
Vancouver, Washington,) **CONCLUSIONS OF LAW,**
) **AND ORDER OF SUMMARY**
) **SUSPENSION OF LICENSE**
Licensee.)

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 Arik Goldsmit's license and the licensee must 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 Title 230 WAC.

II.

The Washington State Gambling Commission issued Arik Goldsmit the following license: Number 68-30057, authorizing Card Room Employee activity with Cadillac Island Casino, Longview, and formerly with Chips Casino, La Center, and Palace Casino, La Center. The license expires on June 13, 2012, and was issued subject to Mr. Goldsmit's compliance with state gambling laws and rules.

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.

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.

IV.

SUMMARY:

On October 17, 2011, Arik Goldsmit admitted to stealing \$100 from Chips Casino, La Center, and \$200 from Palace Casino, La Center.² The thefts occurred on or about September 21, 2010, while the licensee was working as a cage cashier.

FACTS:

1) On October 4, 2011, a Commission Special Agent (agent) was assigned to respond to information received by Pam Vandersloot, Chips/Palace Casino Comptroller, regarding manipulation of a promotional contest of chance³ (PCOC) by licensee Arik Goldsmith. It was determined that Mr. Goldsmit had manipulated a drawing by failing to declare as winners the first three promotional ticket winners drawn during a Sunday Seahawk football game promotion. Mr. Goldsmit admitted to conducting the PCOC incorrectly because he wanted the prize to go to a Chips patron, not a Palace patron. The agent gave Mr. Goldsmit a verbal warning for his actions. Mr. Goldsmit was placed on suspension pending termination by Chips and Palace, La Center. The agent scheduled an appointment with Mr. Goldsmit on October 13, 2011, for Mr. Goldsmit to sign a written statement about the PCOC incident.

2) In the context of his investigation into the PCOC manipulation, the agent recalled thefts in September 2010 from Chips and Palace, La Center. At the time of the thefts, Chips and Palace, La Center conducted internal investigations, and did not report the shortages to Commission staff. Mr. Goldsmit had been mentioned to the agent by casino employees sometime thereafter as a suspect in the thefts.

3) The agent contacted Ms. Vandersloot and asked whether Mr. Goldsmit had been questioned regarding the 2010 thefts. Ms. Vandersloot replied that Mr. Goldsmit had been questioned at the time; he played dumb and shifted the blame to other employees.

4) Ms. Vandersloot informed the agent that Ms. Goldsmit had been disciplined several times while working as a cage cashier for Chips and Palace, La Center. The agent was provided with Mr. Goldsmit's employee file, which included 13 documented disciplinary actions resulting from internal card room investigations over an approximate 13-month period of employment. In one of the incidents, Mr. Goldsmit had forged a reconciliation of cage documents when his cage did not balance.

² Chips and Palace, La Center are owned by the same ownership group and are located next door to each other.

³ A Promotional Contest of Chance (PCOC) is authorized by RCW 9.46.0356 and allows businesses to conduct a promotional contest of chance in this state, or partially in this state, where the elements of prize and chance are present but the element of consideration is not present. Promotional contests of chance shall be conducted as advertising and promotional undertakings solely for the purpose of advertising or promoting the services, goods, wares, and merchandise of a business.

5) On October 13, 2011, when the agent was interviewing Mr. Goldsmit about the PCOC, Mr. Goldsmit appeared very nervous, as evidenced by his posture, lack of eye contact, and shortness of breath. Upon inquiry, Mr. Goldsmit admitted that he was nervous and had not been sleeping or eating well since the interview was scheduled.

6) When the agent asked Mr. Goldsmit if he had ever been contacted concerning missing money from Chips or Palace, La Center, Mr. Goldsmit paused for several seconds, and then said he remembered a discussion with card room staff regarding missing cage money. Mr. Goldsmit continued to say that he heard one hundred dollars, in five \$20 dollar bills, was missing at Chips. The agent thought it was unusual that Mr. Goldsmit knew the exact amount and denomination of monies stolen. Mr. Goldsmit mentioned that he thought a couple hundred dollars may have gone missing at Palace, as well.

7) The agent asked Mr. Goldsmit if he had ever been terminated or disciplined by a previous employer. Mr. Goldsmith replied that he was fired from a casino in California for stealing \$2.00 in chips from a gaming table. Mr. Goldsmit denied stealing the chips, but said he did not fight the allegations because he was planning on moving north anyway.

8) The agent finished his conversation with Mr. Goldsmit on October 13, 2011, saying he found it odd that Mr. Goldsmit was so nervous, and that his behavior was consistent with people who are concealing information or not telling the truth.

9) After the interview, the agent contacted Ms. Vandersloot and said that he believed Mr. Goldsmit may know something about the missing money. Ms. Vandersloot confirmed that she had not previously informed Mr. Goldsmit of the amount and denomination taken. The agent then asked to review surveillance video from the date of the theft at Chips, La Center on September 21, 2010.

10) On the surveillance video, the agent observed Mr. Goldsmit run a strap of currency through a counting device. He then got down on the ground and moved things around in the safe. After being in the safe, Mr. Goldsmit stood back up with closed hands. Mr. Goldsmit then placed his hands behind his shirt and manipulated his pants. After several seconds of manipulating his pants, Mr. Goldsmit then showed both of his hands as empty, and went about his business. Proper procedure, of common knowledge to cage cashiers, requires a cage employee to clear his hands to the camera immediately after exiting the safe.

11) After viewing the surveillance video, the agent asked Ms. Vandersloot for written documentation of the card room's internal investigation into the theft. Another employee, bank cashier, Beatris Turner was disciplined for \$100 (five \$20 bills), missing from the Chips, La Center cage on September 22, 2010.

12) On October 17, 2011, the agent contacted Ms. Turner regarding the incident. Ms. Turner

cashier. Ms. Turner told the agent that she needed \$20's, so she purchased a strap from Mr. Goldsmit by trading \$2,000 worth of gaming chips for a strap of currency. Ms. Turner told the agent that she ran the strap through the counting machine, but did not hear it "beep", which is an audible sound emitted by the machine when a count is accurate. Ms. Turner said that when she was counting the strap, Mr. Goldsmit was talking to her. The agent then contacted Ms. Vandersloot, who had reviewed surveillance from the cage from September 21, 2010, which has since been destroyed in the regular course of business. Ms. Vandersloot confirmed that the machine had counted 95 (\$1,900) instead of 100 (\$2,000) \$20 bills.

13) The agent t contacted Mr. Goldsmit by phone after this and Mr. Goldsmit agreed to meet the agent at the La Center Police Department later on October 17, 2011. When Mr. Goldsmit arrived, he was advised of his Miranda rights, and interviewed by the agent and Sergeant Chris Olsen, of the La Center Police Department. Mr. Goldsmit waived his rights and agreed to the interview.

14) After some discussion, Mr. Goldsmit admitted that he took the money from Chips, La Center. Mr. Goldsmit explained that while working as a cage cashier, he removed five \$20 bills from the top of a strap and put them in his pocket. Mr. Goldsmit said he then sold the short strap to Ms. Turner for \$2,000 in chips. Mr. Goldsmit added that he did the same thing at Palace, La Center, taking two \$100 bills while working in the cashier's cage. Mr. Goldsmit provided a written statement admitting to stealing a total of \$300 from Chips and Palace, La Center.

15) The agent forwarded a criminal theft case to the Clark County Prosecutor for filing, and Mr. Goldsmit was terminated by Palace and Chips, La Center.

16) On October 21, 2011, Mr. Goldsmit began working for Cadillac Island Casino as a card room dealer.

17) By his actions, Mr. Goldsmit 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.

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) provides** that the Commission deems the following actions of a licensee constitute an immediate danger to the public safety and welfare:

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

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(The following subsection applies.)

(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.

4) **RCW 9.46.075(1) provides** the Commission may revoke any license for any reason or reasons it deems to be in the public interest.

5) **WAC 230-03-085(1) provides** that the Commission may revoke any license when a licensee commits any act that constitutes grounds under RCW 9.46.075 for revoking a license, or commits any other act that the commission determines constitutes a sufficient reason in the public interest for revoking a license.

6) **RCW 9.46.075 (10) provides** that the Commission may revoke any license when a licensee has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain.

7) **WAC 230-03-085(8) provides** that the Commission may revoke any and all licenses or permits of any holder, when the holder 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.

8) **RCW 9.46.075(8) provides** the Commission may revoke any license when a licensee fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter.

9) **RCW 9.46.153(1) provides** that 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.

Arik Goldsmit admitted to stealing \$100 from Chips Casino, La Center, and \$200 from Palace Casino, La Center. The thefts occurred in about September 2010, while the licensee was working as a cage cashier. Mr. Goldsmit also admitted to manipulating a promotional drawing at Palace Casino, La Center. The licensee's actions constitute an immediate danger to public safety and welfare based on WAC 230-17-165(3) (a), RCW 9.46.075(1), (8), and (10) and WAC 230-03-085(1), and (8), and are a basis for Arik Goldsmit to immediately stop conducting gambling activities.

The licensee also poses a threat to the effective regulation of gambling, or increases the likelihood of unfair or illegal practices as demonstrated by his prior activity of theft.

Arik Goldsmit has also failed to establish by clear and convincing evidence, as required by RCW 9.46.153(1), that he is qualified to be licensed. As a result, there are grounds to revoke Arik Goldsmit's license based on RCW 9.46.075(1), (8), and (10) and WAC 230-03-085(1) and (8).

II.

The licensee's actions are an immediate danger to public safety and welfare, and the licensee has failed to comply with chapter 9.46 RCW or Commission rules. The immediate suspension of Arik Goldsmit's license to conduct gambling activity 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 Arik Goldsmit'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.

(2) **You also have a right to a hearing on the revocation of your license.** To do so, you must complete and return to the Commission the enclosed Application for Hearing form within twenty (20) days from the date you receive this order. If you do NOT request a hearing, we will enter an Order of Default revoking your license under RCW 34.05.440.

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