

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the)
License to Conduct Gambling Activities of:) NO. CR 2012-01609
)
Bao T. Duong) **FINDINGS, CONCLUSIONS,**
Seattle, Washington,) **DECISION, AND FINAL**
) **ORDER IN DEFAULT**
Licensee.)

THE MATTER of the revocation of the license to conduct gambling activities of Bao T. Duong having come before the Commission on February 15, 2013, the Commission makes the following Findings of Fact, Conclusions of Law, and issues the following Decision and Order:

FINDINGS OF FACT

I.

The Washington State Gambling Commission issued Bao T. Duong the following license:

Number 68-06203, authorizing Card Room Employee activity at Chips Casino in Lakewood and Silver Dollar Casino in SeaTac.

The license expires on November 6, 2013, and was issued subject to Bao T. Duong's compliance with state gambling laws and rules.

II.

On December 7, 2012, Director Rick Day issued a summary suspension to Bao T. Duong. The summary suspension was personally served to Mr. Duong on December 14, 2012. The summary suspension notified Mr. Duong that failure to respond would result in the entry of a default order revoking his license. Mr. Duong did not respond to the charges and waived his right to a hearing and pursuant to RCW 34.05.440, this final order is entered in default.

III.

SUMMARY:

On October 16, 2012, an Information was filed charging Bao T. Duong with a Violation of the Uniformed Controlled Substance Act (VUCSA) for manufacturing marijuana. Mr. Duong admitted to a Renton Police Officer that he was operating a marijuana grow house.

FACTS:

- 1) A Commission Special Agent (agent) was assigned to Bao T. Duong's file to investigate whether he continues to qualify for a license. Mr. Duong is the subject of a pending felony

crime involving moral turpitude. Commission staff learned of this charge during a routine annual investigation.

- 2) As part of the investigation, the agent reviewed Mr. Duong's licensing file. Mr. Duong first applied for and was granted a gambling license in 1999, and has maintained his license since.
- 3) As part of the investigation, the agent reviewed the Judicial Information System (JIS) record on Mr. Duong and noted he had a Controlled Substance Violation charge that was pending. The violation date was May 28, 2012.
- 4) The agent requested and received a certified copy of the Information and the Probable Cause filed in King County Superior Court on October 16, 2012, charging Mr. Duong with VUCSA. The Information stated that Mr. Duong "unlawfully and feloniously did manufacture marijuana, a controlled substance..."
- 5) The following is a summary of the Determination of Probable Cause document:
 - On May 28, 2012, the Renton Police Department received another tip and was advised that a blue vehicle was currently at the home. An officer conducted a traffic stop on the blue vehicle as it left the residence. The driver was identified as Mr. Duong. The officer reported, "He was overwhelmed by the odor of marijuana coming from the inside of the vehicle."
 - Mr. Duong told the officer the odor was coming from a marijuana cigarette that was located inside the vehicle. Mr. Duong also stated that he, "tended to a marijuana grow" located in a home in Renton. He said there were "3-4 rooms with at least 20 marijuana plants in each room of the residence," and that "Tony" owned the home. Later, Mr. Duong changed his story and admitted that the marijuana grow belonged to him.
 - Mr. Duong was arrested for VUCSA. After hearing his Miranda rights, Mr. Duong confirmed he lived at the address and he grew marijuana.
 - On May 29, 2012, a search warrant was served at the residence. Once inside the home, officers saw that each of the home's four rooms were dedicated to growing marijuana and contained marijuana plants, grow lights, grow hoods, and power ballasts. "A total of 164 mature marijuana plants and 105 started marijuana plants were...seized from the home." The officers also saw evidence that the main electrical line coming into the home had been cut as a way to divert the power supply to avoid detection by law enforcement or the power company. "No medical marijuana paperwork was located inside or outside of the home."
- 6) Some of the items seized from the residence included:
 - Grow manuals and magazines;
 - Dominion and control documents;

- 105 starter marijuana plants;
 - 164 mature marijuana plants; and
 - Vacuum sealer and scale.
- 7) A search warrant was also served on Mr. Duong's van that was secured inside the Renton Police Department's evidence garage. A marijuana cigarette was located inside a pack of cigarettes near the driver seat of the vehicle. Mr. Duong's wallet, ID, and a receipt from McLendon's Hardware Store dated May 21, 2012, showing a purchase of a 100-watt light bulb and an indoor timer were also found in the vehicle.
 - 8) On May 29, 2012, officers interviewed Mr. Duong at the jail, after giving him his Miranda rights. Mr. Duong admitted to manufacturing marijuana. He said he needed money, so he decided to grow marijuana. He said he purchased started plants from a guy in Tacoma, he hired a homeless person to help him put the marijuana grow together, and hired someone to "cut into the electrical wires and divert power." Mr. Duong said he had been growing the marijuana plants for 5-6 months and that he did not have a medical marijuana license or certification to grow or possess marijuana.
 - 9) On June 6, 2012, officers contacted the owner of the home and determined that she did not have any knowledge that marijuana was being grown inside the home.
 - 10) On November 14, 2012, the agent accessed the case docket through JIS to determine the status of Mr. Duong's case. According to the docket, Mr. Duong was served with a summons on October 22, 2012. His arraignment was supposed to be held on November 13, 2012; however, no update has been made to docket.

CONCLUSIONS OF LAW:

1) 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 certified employee, 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)¹ 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.

(10) 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;

2) 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, certified employee, or anyone holding a substantial interest in the applicant's or certified employee'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.

(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.

3) 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 pending criminal charges for manufacturing marijuana involve a crime of moral turpitude, and demonstrate that the licensee 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 based on his prior activities.

Mr. Duong has failed to establish clearly and convincingly that he is qualified for licensure, as

¹ RCW 9.46.075(4) includes the following offenses: "...or of any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude."

required by RCW 9.46.153(1). As a result, there are grounds to revoke Bao T. Duong's license based on RCW 9.46.075(1), (8), (9), and (10), and WAC 230-03-085(1) and (8).

IV.

CONCLUSIONS OF LAW

The circumstances specified in the Findings of Facts in section III above constitute grounds for the revocation of Bao T. Duong's license to conduct gambling activities under the authority of RCW 9.46.075 and WAC 230-03-085.

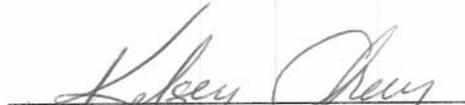
DECISION AND ORDER

The Washington State Gambling Commission HEREBY ORDERS: Bao T. Duong's license to conduct gambling activities is REVOKED.

DATED this 15th day of February, 2013.



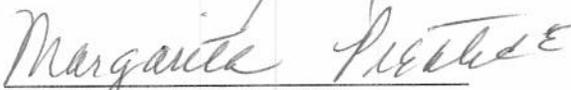
JOHN ELLIS, Chair



KELSEY GRAY



MIKE AMOS



MARGARITA PRENTICE

PRESENTED BY:



Amy B. Hunter, WSBA# 23773
Administrator, Communications and Legal Division
Washington State Gambling Commission

NOTICE: RCW 34.05.440(3) provides that within seven (7) days after service of a default order the party against whom it was entered may file a written motion requesting that the order be vacated and stating the grounds relied upon.

WAC 230-17-040(3) requires that motions be served on the parties listed below:

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