

APR 18 2013

STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE GAMBLING COMMISSION

GAMBLING COMMISSION
COMM & LEGAL DIVISION

In the Matter of the Suspension or
Revocation of the License to Conduct
Gambling Activities of:

KEVIN T. LEE,
Everett, Washington

Licensee.

OAH Docket No. 2013-GMB-0010

WSGC No. CR 2012-01419

INITIAL ORDER

1. HEARING:

1.1 This case came before Administrative Law Judge Douglas H. Haake for an administrative hearing on March 28, 2013, at the Washington State Gambling Commission Hearing Room in Lacey, Washington, after due and proper notice to all parties. The hearing was digitally recorded.

1.2 Kevin T. Lee, Licensee, appeared and represented himself.

1.3 The Washington State Gambling Commission (Commission) appeared through legal counsel, Stephanie U. Happold, Assistant Attorney General.

1.4 Special Agent Julie Sullivan, investigator for the Commission, appeared and testified on behalf of the Commission.

1.5 The Commission presented 28 exhibits, all of which were admitted. Mr. Lee presented 5 exhibits, which were admitted.

2. STATEMENT OF THE ISSUES:

2.1 Whether the Commission correctly determined to revoke Mr. Lee's Public Card Room Employee license, License number 68-15342.

3. FINDINGS OF FACT:

3.1 At all relevant times, Kevin T. Lee has held a Public Card Room Employee license. He was first licensed in 1998. He has worked at various casinos since that time. Exhibit 1.

3.2 Special Agent Julie Sullivan has been with the Washington Gambling Commission for twelve years. She is currently assigned to the Commission's Criminal History Investigation Unit. She has undergone 240 hours of Commission and Washington Criminal Justice Academy training in securing court records and police reports. She has received training as and is a nationally certified fraud investigator. Special Agent Sullivan is in her senior year at Washington State University, studying criminal justice with a minor in sociology. Special Agent Sullivan testimony.

3.3 Mr. Lee applied for renewal of his license. On March 22, 2012, Special Agent Sullivan was assigned Mr. Lee's file to investigate his eligibility to qualify for a gambling license. During that review, Special Agent Sullivan accessed the Judicial Information System (JIS), which is the repository for court records in Washington. She found that Mr. Lee had financial obligations owing to various courts totaling \$4,224.25; \$3,144.25 of which had been sent to collections. She also noted seven failures to appear (FTA). The licensee's offenses spanned the period 1992 to 2012. The oldest case that remains open is from 2005 and has an outstanding balance owing of \$743. Exhibits 4, 18 and 19.

3.4 On October 15, 2012, Special Agent Sullivan printed out Mr. Lee's Defendant Criminal History (DCH) from JIS. Exhibit 2. Special Agent Sullivan testimony. The columns on the DCH print out, reading from left to right the case number, Law Enforcement Agency (LEA), court, violation date, whether the case is one involving domestic violence, the judgment, and case disposition (CD). In the CD column, "W" indicates outstanding warrants, "F" indicates active failure to appear. Special Agent Sullivan testimony.

3.5 Mr. Lee's DCH reflects seven active FTAs. An "A" in the FTA column indicates that the court has pulled the case from collections or adjudicated the case, but does not necessarily indicate the balance owing has been paid. *Id.*

3.6 Failure to appear (FTA) is entered into a defendant's record when the offender has failed to make payments as directed on court imposed financial obligations or failed to appear for a court hearing. *Id.* Some courts use "FTR" for failure to respond in place of FTA. *Id.*

3.7 On October 5, 2012, Special Agent Sullivan sent a letter to Mr. Lee and his employer Goldies Shoreline Casino noting her findings and that she would be recommending that Mr. Lee's license be revoked. Exhibit 5.

3.8 Based on her findings, Special Agent Sullivan contacted the courts at issue, requesting certified copies of court dockets and other information pertaining to Mr. Lee's court ordered financial obligations, and payment history. Special Agent Sullivan testimony.

3.9 In case number 1Z0156965, Mr. Lee was charged in Upper Kittitas District Court with Driving While License Suspended in the Third Degree (DWLS 3), filed February 14, 2011. Exhibit 6. Mr. Lee failed to appear for a number of hearings, and failed to comply with a diversion agreement under which he was to get his license reinstated for a reduced penalty. *Id.* Mr. Lee ultimately entered a plea of guilty. *Id.* page 3. The court imposed fines and fees for time payment and failure to appear totaling \$1,530.50. The court subsequently adjusted the amount owing downward by \$480, and Mr. Lee made a \$100 payment, leaving a balance of \$950.50. Exhibit 7. Mr. Lee entered into a time payment agreement. On April 3, 2012, the court assigned the obligation for collections and issued an arrest warrant based on Mr. Lee's failure to meet the time payment obligations. Exhibit 6.

3.10 On the same day, in case number 1Z0156964, Mr. Lee was charged with the traffic infraction of speeding. Exhibit 8. He requested a mitigation hearing and was offered a deferred finding wherein he could pay \$113 or attend traffic school. Mr. Lee did not return the deferred finding order so the court entered a committed finding, imposing \$123 in fines. On May 23, 2011, the court entered Mr. Lee into a time payment agreement. *Id.* page 1. On June 28, 2011, the case was removed from time payment, additional costs were imposed and the obligation was forwarded to collections. *Id.* page 2. Case number 1Z0156964 had a \$227 balance owing and reflected no payments on October 15, 2012, the date the record was printed. *Id.*

3.11 On September 10, 2010, in case number I06327013, Mr. Lee was charged in Snohomish County District Court with speeding and no valid operator's license. Exhibit 10. On October 11, 2010, the court entered committed findings and imposed \$777 in financial obligations based on Mr. Lee failing to respond (FTR). On December 6, 2010, the outstanding balance was assigned to collections. *Id.* On March 1, 2013, Mr. Lee entered into a time payment agreement with the collections agency. On March 5, 2013, Mr. Lee made a payment of \$336.16, leaving a balance of \$440.84. *Id.* No payments were made between October 2010, and March 2013. *Id.*

3.12 On December 30, 2009, case number I06194967 was filed in Snohomish County District Court charging Mr. Lee with speeding. Exhibit 12. On February 18, 2010, Mr. Lee failed to appear for hearing. A committed finding was entered, and \$206 in court financial obligations was imposed. *Id.* On May 24, 2010, the case was first referred to collections. *Id.* On March 1, 2013, the collections agency notified the court that Mr. Lee had entered into a time payment agreement. *Id.* The balance owing on March 25, 2013 remained \$206. *Id.*

3.13 On November 11, 2009, case number I06094411 was filed In Snohomish County District Court, Everett Division, charging Mr. Lee with speeding. Exhibit 14. On October 12, 2009, an FTR was entered, and \$145 in fines was imposed. *Id.* On

April 29, 2009, the court entered committed findings to both charges and imposed \$1,152 in fines. Exhibit 13. On November 30, 2009, Mr. Lee entered into a time payment agreement, under which he made one payment, in the amount of \$20.25, on December 10, 2009. *Id.* The \$124.75 balance remained owing effective March 25, 2013. Exhibit 14

3.14 On January 29, 2009, case number 9Y6018254 was filed in King County District Court charging Mr. Lee with violation of transit/car pool lane. Exhibit 16. On March 9, 2009, Mr. Lee was found to have committed the offense, \$124 was imposed, and a time payment agreement entered into, with Mr. Lee making a \$60 payment. *Id.* Mr. Lee made no additional payments. Exhibit 17. On June 24, 2010, the case was assigned to collections. Exhibit 16. On March 15, 2013, Mr. Lee contacted the court requesting case status and payment options. *Id.*

3.15 In case number I04398562, Mr. Lee was charged with speeding in Snohomish County District Court, Cascade Division. On June 14, 2005, the court entered a committed finding, imposing \$691 in fines and entered a time payment agreement. Exhibit 18. Mr. Lee failed to make payments which resulted in an FTA being issued and the amount of \$743 being referred to collections. *Id.*

3.16 On September 23, 2010, in case number XY0412821, Mr. Lee was charged with DWLS 3. Exhibit 20. He failed to appear for arraignment on October 5, 2010 and a warrant issued for his arrest. *Id.* He was subsequently arrested and released after posting bail. *Id.* Mr. Lee subsequently failed to appear for hearings on July 14, 2011, and December 1, 2011. *Id.* pages 3 and 4. On October 8, 2012, Mr. Lee was found guilty and fines and costs of \$585 were imposed and a time payment agreement entered. *Id.* page 6. On February 4, 2013, the \$585 balance was forwarded to collections. *Id.*

3.17 On July 20, 2012, DWLS 3 a charge was filed against Mr. Lee in Marysville Municipal Court, in case number 2Z0400771. Exhibit 21. On October 9, 2012, a guilty finding was entered and \$495 in fines and fees was imposed and a time pay agreement entered. *Id.* On December 20, 2012, the case was removed from time pay and on February 4, 2013, the outstanding balance of \$495 was assigned to collections. *Id.* page 2.

3.18 Based on information received from the courts, Special Agent Sullivan created a chart showing Mr. Lee's charges, number of FTAs, outstanding balances, and last payments. Exhibit 4. As of October 15, 2012, Mr. had \$3,144.24 in collections in the above matters. His history also reflected 7 FTSS. *Id.*

3.19 On March 5, 2013, Special Agent Sullivan printed out an updated DCH for Mr. Lee. Exhibit 23. The updated DCH reflects a new DWLS 3 charge, 3Z0084125 in Marysville Municipal Court. Mr. Lee did not report the new charge to the

Commission. Special Agent Sullivan testimony. As of March 5, 2013, an additional \$1,080 in court financial obligations had been sent to collections.

3.20 On the hearing date, Special Agent Sullivan ran an additional case docket inquiries (CDK) in JIS. Based on her inquiries, she learned that Mr. Lee has entered into a new time payment agreements in case numbers XY0412821, 2Z0400771, I06327013, I06094411, and I06194967. Exhibit 24, 25, 26, 27, and 28. The time payment agreement adjudicates the FTA but does not necessarily indicate that any payment was made. Special Agent Sullivan testimony. Mr. Lee made a payment in I06327013 in the amount of \$336.16. Exhibit 28. Based on this payment, Mr. Lee continues to have \$3,880 in collections. Exhibit 4, Special Agent Sullivan testimony.

3.21 Based on her investigation, Special Agent Sullivan recommended that Mr. Lee's license be revoked.

3.22 Other than the driving record reflected in the above cited records, Mr. Lee has not been charged with criminal activity. Kevin T. Lee testimony. He is not a hardened criminal, has never been investigated before and would like to go back to work in his chosen profession. *Id.*

4. CONCLUSIONS OF LAW:

Jurisdiction

4.1 Office of Administrative Hearings has jurisdiction over the person and subject matter herein pursuant to RCW 9.46.140, Chapter 34.05 RCW, and Title 230.

Burden Of Proof

4.2 Licensees bear the burden of establishing their qualifications by clear and convincing evidence. RCW 9.46.153(1). Each applicant and holder of a license issued pursuant to Chapter 9.46 RCW is subject to continuous scrutiny regarding his/her general character, integrity, and ability to engage in or participate in, or associate with, gambling or related activities impacting this state. RCW 9.46.153.

Legislative Intent

4.3 The legislative intent expressed in RCW 9.46.010 provides in relevant part: "The public policy of the state of Washington on gambling is to keep the criminal element out of gambling and to promote the social welfare of the people by limiting the nature and scope of gambling activities by strict regulation and control." The statute further provides: "All factors incident to the activities authorized in this chapter shall be closely controlled, and the provisions of this chapter shall be

liberally construed to achieve such end.” In short, those persons who wish to work in this highly regulated industry are held to the very highest character and integrity standards.

License Suspension and Revocation

4.4 RCW 9.46.075(1) and (8) and WAC 230-03-085(1), (3), and (8), provide that the Commission may revoke a license for any reason which it finds is in the public interest, including where the licensee has violated or failed or refused to comply with the provisions, requirements, conditions, limitations, or duties imposed under Chapter 9.46 RCW or any rules adopted by the Commission under law. Likewise, WAC 230-04-400(1) and (11) provide that the Commission may revoke a license for any action which violates 9.46 RCW. The Commission may, therefore, revoke the class III certification of any individual who fails to prove by clear and convincing evidence that he or she meets the character requirements for a gambling license. RCW 9.46.075(8).

4.5 WAC 230-03-085(3), provides that the Commission may suspend a gambling license when the license holder has demonstrated willful disregard of federal, state or local laws, administrative rules, and the lawful orders of administrative bodies and courts with jurisdiction to enforce such laws and rules.

4.6 WAC 230-03-085(8), provides that the Commission may suspend a gambling license when the license holder poses a threat to the effective regulation of gaming or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gaming activities, as demonstrated through the person's prior activities, criminal record, reputation, habits, or associations.

4.8 RCW 9.46.075(8) and RCW 9.46.153(1) place the burden on the licensee to affirmatively establish by clear and convincing evidence that he is qualified to hold a gambling license in accordance with the laws and regulations governing gambling in the State of Washington.

Analysis

4.9 Mr. Lee is not alleged to be a hardened criminal, a cheat or a thief. Here, Mr. Lee has exhibited a pattern of ignoring court orders. His actions have resulted in an outstanding court ordered financial obligations in excess of \$3,000, some of which has been in collections since 2005. He entered into time payment agreements with the court, only to have the courts revoke the agreements when he did not make payments as promised. Further, Mr. Lee has on a number of occasions failed to appear for court dates, causing delay in resolving his cases. Mr. Lee's actions reflect a willful disregard for rules and court orders.

4.10 Mr. Lee's pattern of behavior poses a present threat to the effective regulation of gaming and presents a threat to the public in his position as a gambling licensee in that he is willing to disregard rules that it is not convenient for him to comply with. His willingness to disregard court orders suggests that he would be equally willing to disregard Commission rules. It is therefore in the public interest that his gambling license be revoked. The Commission has the authority to revoke Mr. Lee's Public Card Room license, and has delegated the initial decision regarding suspension or revocation to the Office of Administrative Hearings through the provisions of RCW 9.46.140.

4.11 Mr. Lee has not affirmatively established by clear and convincing evidence that he is qualified to hold a gambling certification in accordance with the laws and regulations governing gambling in the State of Washington. RCW 9.46.075.

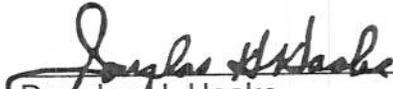
4.12 Accordingly, pursuant to the foregoing Findings of Fact and Conclusions of Law, Mr. Lee's Public Card Room license shall be revoked.

1. INITIAL ORDER:

IT IS HEREBY ORDERED,

Pursuant to law and public interest, Mr. Lee's Public Card Room license, is hereby revoked.

SERVED on the date of mailing.


Douglas H. Haake
Administrative Law Judge
Office of Administrative Hearings

NOTICE TO THE PARTIES OF APPEAL RIGHTS

You may file an appeal of this order within twenty three days from the day OAH mails this initial order to you. WAC 230-17-090(2); *see also* WAC 230 -17 -030(2), WAC 230 -17 -035(2) [Service by first class mail is complete three days after mailing.]. An appeal from an initial order is known as a "petition for review". Your petition for review should (a) identify the parts of the initial order you disagree with and (b) refer to the evidence in the record that supports your position. If you decide to petition for review, you must serve copies of your petition on all parties or their representatives at the same time you file it with the Gambling Commission. If the Commission does not receive a petition for review within 23 days, the Commission will automatically make this order its final order.

Any party may file a written response to a petition for review, known as a reply. If you wish to file a reply, it must be filed with the Commission within thirty days of the date you are served with the petition. You must serve copies of the reply on all parties or their representatives at the same time you file your reply.

Any party may file a cross appeal. Cross appeals must be filed with the commission within ten days of the date when the petition for review is filed with the Commission. WAC 230 -17 -090(5). If you wish to make a cross appeal, you must serve copies of the cross appeal upon all other parties or their representatives at the same time you file your cross appeal.

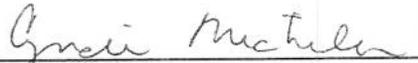
If a party timely files a petition for review, then at least a majority of the Commission members shall review the petition within 120 days and render a final order.

Certificate of Service – OAH Docket No. 2013-GMB-0010

I certify that true copies of this document were served from Tacoma, Washington upon the following as indicated:

Kevin T. Lee 5729 – 70 th Street NE Marysville, WA 98270	<input checked="" type="checkbox"/> First Class US mail, postage prepaid <input type="checkbox"/> Certified mail, return receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> 1st Class, postage prepaid, Certified mail, return receipt
Stephanie U. Happold Assistant Attorney General Office of the Attorney General PO Box 40100 Olympia WA 98504-0100	<input checked="" type="checkbox"/> First Class US mail, postage prepaid <input type="checkbox"/> Certified mail, return receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> 1st Class, postage prepaid, Certified mail, return receipt
Washington State Gambling Commission ATTN: Legal Department PO Box 42400 Olympia WA 98504	<input checked="" type="checkbox"/> First Class US mail, postage prepaid <input type="checkbox"/> Certified mail, return receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> 1st Class, postage prepaid, Certified mail, return receipt

Date: April 17, 2013



Cyndi Michelena
Office of Administrative Hearings