STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Summary Suspension of the License to Operate Gambling Activities of: Nghi Nguyen Lynnwood, Washington, Licensee.	)	NO. CR 2012-00956 **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 suspend[1] 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 Nghi Nguyen, his representative, or agent. A Commission Special Agent shall seize Nghi Nguyen's license and the licensee must immediately stop conducting gambling activities.

FINDINGS OF FACT

I.

Rick Day is 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 Nghi Nguyen license number 68-03799, authorizing Card Room Employee activity.

The Commission issued this license, which expires on January 5, 2013, subject to the licensee's compliance with state gambling laws, and Commission 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 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 July 6, 2012, Nghi Nguyen, a card room employee at the Drift on Inn, asked Shawn Karmil, also a card room employee at the Drift on Inn, to give him $7,000 in cash from the poker podium so he could use it to gamble.

FACTS:

1) On July 23, 2012, a Washington State Gambling Commission Special Agent Supervisor (SAS) and Special Agent (agent) received an anonymous complaint. The complainant stated that a poker dealer from the Drift on Inn had borrowed money from the poker bank to gamble on July 6, 2012. The complainant stated that a poker supervisor at the Drift on Inn named Nathan (Nghi Nguyen) had played Pai Gow at Club Hollywood. Mr. Nguyen lost all of his own money at Club Hollywood and then borrowed money from the poker bank at the Drift on Inn. Mr. Nguyen went back to Club Hollywood and played Mini-Baccarat, where he lost all the money he had borrowed to continue gambling.

2) The SAS and agent got additional information from the complainant that Mr. Nguyen had been "harassing" players in Club Hollywood to borrow money. The complainant also stated that Mr. Nguyen "made the floor give him the money out of the poker bank." Additionally, the complainant stated that Mr. Nguyen had won $2,500 while playing Pai Gow at Club Hollywood. Mr. Nguyen then played Baccarat and lost the $2,500. Mr. Nguyen kept leaving the table, possibly 12 times, each time coming back with $500 to $900 between 11:00 and 13:00 hours.

3) On July 23, 2012, SAS and the agent went to Club Hollywood and obtained a copy of Mr. Nguyen's Sonoma account[2] and customer history summary. According to the Sonoma account for Mr. Nguyen, he went into Club Hollywood on July 6, 2012, and first checked into the system at 04:55 hours to play Fortune Pai Gow. The last entry in the Sonoma system on July 6, 2012, had Mr. Nguyen playing Mini-Baccarat from 10:51 hours to 13:33 hours. The Sonoma account showed that Mr. Nguyen had lost $8,770 while playing Mini-Baccarat that day.

4) Also on July 23, 2012, the SAS and agent went to the Drift on Inn and obtained a copy of the surveillance video for the time period of 09:56 hours to 17:58 hours on July 6, 2012, showing the poker podium and a poker chip cabinet.

---

[2] The Sonoma account is a tracking system that some card rooms use to gather information on players while they gamble. When a player goes into a card room to gamble and gives their player tracking card to the floor supervisor, the floor supervisor will enter the player into the system and will keep track of what tables a player plays at, how much money the player wins or loses, how much the player bought-in for, time play started and time play ended.

5) The SAS and agent also received a copy of Drift on Inn's Supervisor's Record of Incident/Counseling form. The form contained a short paragraph explaining General Manager John McNutt had terminated Mr. Nguyen. Mr. McNutt wrote that Mr. Nguyen had been drinking and gambling. He also owed a lot of money to employees and had a short temper that was running off players.

6) On July 6, 2012, at 11:36 hours on the video, Shawn Karmil opened the poker podium till. Mr. Karmil pulled out a bundle of money and started to count it. He split the bundle into two separate stacks and put one stack back where he had picked it up from and put the other stack in the corner of the till. Mr. Karmil then walked away from the open till. Mr. Karmil returned to the till approximately 25 seconds later and picked up the stack of money he had placed in the corner of the till. Mr. Karmil immediately turned around, and walked to the poker chip cabinet behind him and placed the money inside. Mr. Karmil positioned himself so his whole body blocked the camera from viewing what he was doing inside the cabinet. A few seconds later, Mr. Karmil turned around, and the money had disappeared. As Mr. Karmil walked away from the cabinet, he closed his right hand and appeared to be holding something inside of it. Mr. Karmil then walked out of camera view.

7) On August 24, 2012, the SAS and the agent interviewed Drift on Inn Poker Manager, Qiang Li (also known as Charlie). Mr. Li's interview is summarized as follows:

- Mr. Li stated that on Friday afternoon, he received a phone call from a dealer named Daryl Thomas. Mr. Thomas told Mr. Li that Mr. Nguyen had been trying to borrow money from him. Mr. Thomas told Mr. Li he had a mortgage to pay and was not sure if he should give the money to Mr. Nguyen. Mr. Nguyen wanted to borrow $3,000. Mr. Li stated he told Mr. Thomas if he had the money he could loan it to Mr. Nguyen, but it was up to him. Mr. Thomas told Mr. Li never mind and hung up.

- Later, Mr. Thomas called Mr. Li again and told him that Mr. Nguyen had borrowed money from Shawn Karmil. Mr. Karmil had given Mr. Nguyen the money from poker podium.

- Mr. Li stated that after Mr. Nguyen lost the money he borrowed from Mr. Karmil, he called and asked to borrow $3,000 from Mr. Thomas.

- Mr. Li asked Mr. Karmil what had happened. Mr. Karmil said, "Nathan came to me [and] ordered me to give him the money." Mr. Karmil explained to Mr. Li that Mr. Nguyen, "demanded, ordered me to give him $1,000." About an hour and a half later, Mr. Nguyen borrowed $2,000 on three separate occasions from Mr. Karmil, for a total of $7,000.

- Mr. Li told Mr. Karmil someone better get the money back. Mr. Karmil said, "He's my boss, he demanded the money." Mr. Karmil then stated that Nathan will pay him back.

- Mr. Li provided a written statement.

8) On September 28, 2012, the SAS and the agent interviewed Mr. Nguyen. Mr. Nguyen's interview is summarized as follows:

- Mr. Nguyen stated he got off work somewhere between 17:15 hours and 17:30 hours, at which time he went to Club Hollywood with a co-worker. Mr. Nguyen gambled for a while and said he had "5 [or] 6 drinks." Mr. Nguyen won some money and gave it all to his friend to hold onto.

- Mr. Nguyen then went to Drift on Inn to play poker. Drift on Inn did not have poker, so he went back to Club Hollywood and played Baccarat. Mr. Nguyen said he had a gambling and drinking problem and just "couldn't control myself." Mr. Nguyen lost money at Baccarat and wanted to win the money back. He went back to Drift on Inn and asked Shawn Karmil for money saying, "Do you have any money on you? I'll give it back."

- Mr. Nguyen stated that Mr. Karmil told him, "As long as you get it back tonight." Mr. Nguyen added he thought Mr. Karmil gave him $1,000 the first time. Mr. Nguyen said he gambled the $1,000 and, "then I couldn't stop myself. I went and asked him again."

- Mr. Nguyen said, "I'm almost 100% I knew," it came from the poker podium. Mr. Nguyen stated he told Mr. Karmil, "as a friend" to give him the money. Adding that, "I would never order" anyone to do that. Mr. Nguyen stated that while working at Parker's, he had borrowed one time from the poker bank. Mr. Nguyen added that the money came "from Charlie, like $1,000," and it happened around January of 2012.

- Mr. Nguyen stated he borrowed from the Drift on Inn on July 06, 2012, a total of "$7,000." Mr. Nguyen stated he called a friend to borrow $7,000 to pay the Drift on Inn back. The friend told him she could get him the money. He picked up the money and then went to the Drift on Inn and gave the money back to Mr. Karmil.

- Mr. Nguyen said Mr. McNutt told him, "you're out of control, we saw what you did on Friday, we're gonna [sic] have to let you go." Mr. Nguyen stated that Mr. McNutt knew Mr. Karmil gave him the money. Mr. Nguyen said he was glad Mr. Karmil did not get into trouble. Mr. Nguyen also stated he called Mr. Karmil, who said, "I don't know why I did what I did."

9) On August 24, 2012, the SAS and the agent interviewed Shawn Karmil. Mr. Karmil's interview is summarized as follows:

- Mr. Karmil stated that Mr. Nguyen and Mr. Li were in charge of the poker room, with both of them being co-poker room managers. Mr. Karmil stated Michael Carter was working in the pit, but the poker side of the house never worked with the pit. Mr. Karmil added he just did not have that line of thinking to go to someone else about the incident. Mr. Carter was the shift manager at the Drift on Inn at the time of the incident. According to Drift on Inn's internal controls, a shift manager has complete authority over all gaming in the absence of the general manager, gaming manager, and casino manager.

- Mr. Karmil stated that Mr. Nguyen had told him, "Just do it." (This was in reference to having Mr. Karmil take money from the poker bank.) Mr. Karmil added that while the incident was happening he was thinking to himself that, "This is really 'F'd'." The SAS asked Mr. Karmil why he didn't contact the casino manager, Steven Charie, about the incident. Mr. Karmil stated he didn't have Mr. Charie's phone number. Mr. Karmil added he should have just called Mr. Li "right then," but didn't. Mr. Karmil stated his reason for not contacting Mr. Li was, "Nathan is telling me I need to give him this money."

- Mr. Karmil said the incident happened on Friday. Mr. Nguyen was at the Drift on Inn in his work clothes when he came in for his shift in the morning. Mr. Karmil stated he had a conversation with Mr. Nguyen and Mr. Carter about comping players. Around 11:30, Mr. Nguyen asked Mr. Karmil to go outside with him. Mr. Nguyen told Mr. Karmil to give him, "$1,000" out of the poker till. Mr. Karmil said he told Mr. Nguyen, "I can't give you money." Mr. Nguyen responded by saying, "Just do it, the consequences are on me."

- Mr. Karmil said he went inside and got $1,000 out of the poker till and gave it to Mr. Nguyen. About 20 minutes later, Mr. Nguyen asked for another $2,000. Mr. Karmil stated he gave Mr. Nguyen the $2,000 he asked for. Between a 45-minute to 60-minute period, Mr. Nguyen came back and asked for another $2,000 two more times. Mr. Karmil stated he gave Mr. Nguyen the money. Later in the interview, Mr. Karmil stated that at least two, (but probably all four) of the transactions took place outside of the side door to Drift on Inn.

- Mr. Karmil said he counted all of the money inside the poker chip cabinet. The SAS asked Mr. Karmil if he was hiding the money counting from the camera. Mr. Karmil said, "Sure, don't be discreet on camera."

- Mr. Karmil stated that, "by 1:00, the till was $7,000 short." Mr. Karmil added that Mr. Nguyen was coming in to work about 20:00 hours and the till would be his, but, "I knew I needed to buy chips back from the main cage." (This meant

that when the poker podium gets short on chips, the poker supervisor does an exchange with the cashier's cage. The poker supervisor exchanges an equivalent amount of cash for chips.) Mr. Karmil stated that after giving Mr. Nguyen the last $2,000, a while later, Mr. Nguyen came back and "wanted $10,000." Mr. Karmil told Mr. Nguyen he could not.

- Mr. Nguyen told Mr. Karmil he had money coming. Mr. Karmil added that about an hour later he received a call from one of the dealers, Darryl Thomas, saying Mr. Nguyen wanted to borrow money from him. Mr. Karmil stated he then realized that Mr. Nguyen didn't have the money.

- Mr. Karmil stated that Mr. Li came into the Drift on Inn and talked with Mr. Nguyen. Then about 4:00 to 5:00 p.m., Mr. Nguyen came back with the $7,000. Mr. Karmil added that Mr. Nguyen told him to meet in the bathrooms, so it wouldn't be on camera. After receiving the money, Mr. Karmil placed it back into the till and then had a conversation with Mr. Li.

- Mr. Li asked Mr. Karmil why he had given him the money to Mr. Nguyen. Mr. Karmil stated, "Charlie, he's my boss, just like you're my boss." Karmil said, "at no point did Nathan look drunk to me."

- The SAS asked Mr. Karmil if anyone from management had spoken to him about the incident. Mr. Karmil said, "he never had any conversation with anyone but Charlie about it." Mr. Karmil added that Mr. Li implied there was a, "sweep it under the rug mentality." Mr. Li told Mr. Karmil that, "The owner doesn't know anything, the owner doesn't want to know anything," in referring to general manager John McNutt.

- Mr. Karmil provided a written statement.

\\\

\\\

\\\

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;

(b) Knowingly causing, aiding, abetting, or conspiring with another to cause any person to violate any of the laws of this state or the rules of the commission; or

Nghi Nguyen conspired with Mr. Karmil and took $7,000 in cash from the poker podium to gamble with. The licensed employee's actions constitute an immediate danger to public safety and welfare based on WAC 230-17-165(3) (a) and (b), and are a basis for Nghi Nguyen to immediately stop conducting gambling activities.

RCW 9.46.075 Denial, suspension, or revocation of certification, 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.

(2) Knowingly causes, aids, abets, or conspires with another to cause, any person to violate any of the laws of this state or the rules of the commission;

(8) Fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter.

(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;

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

RCW 9.46.185 Causing person to violate rule or regulation.
Any person who knowingly causes, aids, abets, or conspires with another to cause any person to violate any rule or regulation adopted pursuant to this chapter shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021.

RCW 9.46.190 Violations relating to fraud or deceit.
Any person or association or organization operating any gambling activity who or which, directly or indirectly, shall in the course of such operation:
(The following subsections apply.)

(1) Employ any device, scheme, or artifice to defraud; or

(3) Engage in any act, practice or course of operation as would operate as a fraud or deceit upon any person;

Shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021.

WAC 230-06-035 Credit, loans, or gifts prohibited.
(The following subsection applies.)

(1) Licensees, employees, or members must not offer or give credit, loans, or gifts to any person playing in an authorized gambling activity or which makes it possible for any person to play in an authorized gambling activity.

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 certified employee's pending criminal charges demonstrate that the Class III employee poses a threat to the effective regulation of gambling, creates, or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities.

On July 6, 2012, Mr. Nguyen asked Mr. Karmil to unlawfully take $7,000 total in cash out of the Drift on Inn poker podium. Mr. Nguyen used the stolen money to gamble with at Club Hollywood, in violation of RCW 9.46.185, RCW 9.46.190 (1) and (3), and WAC 230-06-035 (1). Mr. Nguyen has failed to establish clearly and convincingly that he is qualified for licensure, as required by RCW 9.46.153(1). As a result, there are grounds to revoke Nghi Nguyen's license based on RCW 9.46.075(1), (2), (8), and (10), and WAC 230-03-085(1), (3), 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 Nghi Nguyen's 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 Nghi Nguyen'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.

If you have any questions regarding the rights stated above, please contact Paralegal Jennifer Stretch, at (360) 486-3465 or 1-800-345-2529, extension 3465.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

Rick Day, under oath, declares that he has read this Order of Summary Suspension of License, knows its contents, and believes it to be true, and affirms that he is the Director of the Washington State Gambling Commission and in that capacity has executed this Order of Summary Suspension of the License.

Rick Day

Rick Day, Director

SUBSCRIBED AND SWORN TO before me this 21 day of December, 2012.

Maureen Pretell

NOTARY PUBLIC in and for the State of Washington, residing at: Thurston County
My Commission expires on December 2, 2015