

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Summary Suspension of the)
License to Conduct Gambling Activities of:) NO. CR 2013-02124
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Anh Tu N. Ho) **FINDINGS OF FACT,**
Olympia, 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 Anh Tu N. Ho's license and the licensee must stop conducting gambling activities.

FINDINGS OF FACT

I.

David Trujillo 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 Anh Tu N. Ho the following license:

Number 68-12962, authorizing Card Room Employee activity with the Chips and Palace Casinos in Tukwila.

The license expires on June 4, 2014, and was issued subject to Mr. Ho's compliance with state gambling laws and 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 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.

IV.

SUMMARY:

On October 23, 2013, an Information was filed in King County Superior Court charging Mr. Ho with one count of Assault 2nd Degree and one count of Assault 3rd Degree. The charges stem from when Mr. Ho was allegedly at a party and recklessly inflicted substantial bodily harm with criminal negligence to another individual while using a bottle as a weapon.

FACTS:

- 1) On October 31, 2013, Anh Tu N. Ho came to the Washington State Gambling Commission (WSGC) headquarters to report his criminal history. A Washington State Gambling Commission Special Agent (agent) greeted him at the counter. Mr. Ho gave the agent a copy of a document from the King County Prosecuting Attorney showing that he was being charged with Assault 2nd Degree and Assault 3rd Degree. The document also stated that his arraignment was scheduled at 09:00 hours on November 7, 2013. The agent let Mr. Ho know that due to the nature of the pending felonies, she would most likely seek summary suspension of his license.
- 2) As part of the agent's investigation, she requested certified court documents from King County Superior Court for the case and also reviewed Mr. Ho's licensing file. The agent saw that he first applied for and was issued a class III certification² in 2000 and not long after, he transferred to a house-banked card room. He has maintained his license since 2000 and has worked at various card rooms including the former Paradise Bowl and Casino, Great American Casino in Kent and Hawks Prairie Casino.
- 3) On November 8, 2013, Mr. Ho came back to WSGC headquarters and provided the agent with a copy of a Notice of Case Scheduling Hearing Date that was filed in King County Superior Court. The document showed that his next court date was scheduled for November 19, 2013. His next court date is scheduled for December 17, 2013.
- 4) On October 23, 2013, an Information was filed in King County Superior Court charging Mr. Ho with the following:

² Class III Certifications are issued to employees working at tribal casinos. The certification authorizes similar activities as the Card Room Employee (CRE) license issued to individuals working at commercial house-banked card rooms. Holders of a Class III Certification may transfer their certification to a CRE license by submitting a transfer application and fees.

- Count 1: Assault in the Second Degree – On or about October 19, 2013, Mr. Ho intentionally assaulted another, thereby recklessly inflicting substantial bodily harm upon Max Dang.
- Count 2: Assault in the Third Degree – On or about October 19, 2013, Mr. Ho, with criminal negligence, caused bodily harm to David Dang by means of a weapon or other instrument or thing likely to produce bodily harm, to-wit: a bottle.

5) A Prosecuting Attorney Case Summary and Request for Bail and/or Conditions of Release was also filed with the Information. This document requests that Mr. Ho's bail be set at \$15,000 "because of the likelihood that the defendant will commit a violent offense." The document states that while at a party, Mr. Ho got into a fight with David Dang. David's son, Max Dang stepped in to protect his father. Mr. Ho hit David Dang in the head with a glass bottle and slashed Max's throat with a broken bottle, "causing a severe laceration" that required emergency surgery.

6) Certificate of Determination of Probable Cause was also filed with the Information. This document states that on October 19, 2013, Mr. Ho was at a friend's party when he approached two females and stated flirting with them and touching them. David asked Mr. Ho, who is 35 years old, to stop his inappropriate behavior because the girls were under 18 years old. Mr. Ho stopped flirting with the girls, but only for a short time.

7) David then spoke to Mr. Ho's older brother, who was also at the party, in hopes that the brother could help influence Mr. Ho to stop his behavior towards the girls. When the brother spoke to Mr. Ho, he got angry and approached David. Mr. Ho eventually calmed down and over the next two hours, apologized to David five different times.

8) Towards the end of the party, Mr. Ho became angry again and started yelling at David. Max heard the commotion and went to see what was going on. After Mr. Ho threw a right-handed punch at David, Max stepped in to defend his dad and punch Mr. Ho on the chin. Mr. Ho came back at David with a cocked right hand. Max thought Mr. Ho was holding a bottle, so he stepped in front of his dad in an effort to protect him. Mr. Ho hit Max on his forehead with a bottle, shattering the bottle. The impact caused cuts to Max's forehead. Max punched Mr. Ho and at some point during the altercation, Mr. Ho grabbed another bottle. He shattered it over David's head, causing a bleeding wound to the front of David's head near his hairline.

9) During the time Max and Mr. Ho fought, Max remembered Mr. Ho's shoulder swinging back and forth toward him. Max felt what he believed to be blood spraying from his body. Max eventually felt his neck and discovered an open wound. Another person who was at the party drove Max to the hospital.

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10) After Max left, there was still yelling and fighting going on. David went upstairs to retrieve his gun as some of Mr. Ho's brothers were actively trying to attack him. David went back downstairs with the gun and pointed it at the ceiling in an effort to get everyone to leave. When that didn't work, David went outside and fired a single shot into the air just outside his front door, causing Mr. Ho and his brothers to leave.

11) One person told officers that he was in the area of the kitchen when he saw Mr. Ho hit David over the head with a beer bottle. When Max tried to intervene, Mr. Ho cut his neck with a shattered bottle.

12) When Mr. Ho was questioned by officers, he admitted that he and David were in a confrontation when David told him to leave the house. Mr. Ho said things became violent, and he got pushed around. He said he was struck and felt blood all over his body so he grabbed a bottle and started swinging it around for his safety. He did not "believe the bottle broke and [did] not recall hitting anybody with it, but may have thrown it."

13) One of Mr. Ho's brothers said he was at the party, too but didn't see Mr. Ho strike anyone. Another brother said he tried to break up the fight and got hit on the head by David with a beer bottle. He also said he didn't see Mr. Ho with a bottle in his hand or see Mr. Ho strike anyone.

14) According to Max, the hospital told him the cut to his neck exposed his windpipe and was approximately 3.5 inches wide and 6 millimeters deep. No major blood vessels or arteries were severed, but if that had occurred, it could have been fatal.

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.

(f) Being subject to current prosecution or pending charges, or appealing a conviction, for any of the offenses included under (d)³ of this subsection.

On October 23, 2013, an Information was filed in King County Superior Court charging Mr. Ho with one count of Assault 2nd Degree and one count of Assault 3rd Degree. The charges stem from when Mr. Ho was allegedly at a party and recklessly inflicted substantial bodily harm with criminal negligence to another individual while using a bottle as a weapon. His actions constitute an immediate danger to public safety and welfare based on WAC 230-17-165 (2), (3) (a), and (f) are a basis for Anh Tu N. Ho to immediately stop conducting gambling activities.

4) 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.

(8) Fails to prove, by clear and convincing evidence, that he, she or it 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)⁴ 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.

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, certified employee, or anyone holding a substantial interest in the applicant's or certified employee's business or organization:

³ (d) Being convicted of, or forfeiting of a bond on a charge of, or having pled guilty to: (i) Forgery; or (ii) Larceny; or (iii) Extortion; or (iv) Conspiracy to defraud; or (v) 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 (vi) Bribing or otherwise unlawfully influencing a public official or employee of any state or the United States; or (vii) Any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude.

⁴ (4) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, wilful 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.

(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.

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. 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.

Mr. Ho has been charged with Assault 2nd Degree and Assault 3rd Degree. Both felony charges are pending. Anh Tu N. Ho 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 Mr. Ho's license based on RCW 9.46.075(1), (8), and (9) 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 Anh Tu N Ho'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 Anh Tu N. Ho's license is summarily suspended, pending a formal hearing by an Administrative Law Judge.

