

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Summary Suspension of the License to Conduct Gambling Activities of:)	NO. CR 2013-00556
)	
Tone M. Saechao)	FINDINGS OF FACT,
Kirkland, Washington,)	CONCLUSIONS OF LAW,
)	AND ORDER OF SUMMARY
Licensee.)	SUSPENSION OF
)	LICENSE

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 Interim Director has reviewed this Order of Summary Suspension and has issued it for service.

This order takes effect when served on Tone M. Saechao, his representative, or agent. A Commission Special Agent shall seize Tone M. Saechao's license and he must immediately stop conducting gambling activities.

FINDINGS OF FACT

I.

David Trujillo is Interim 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 Tone M. Saechao license number 68-29476, authorizing card room employee activity.

The Commission issued this license, which expires on August 25, 2013, subject to the licensed employee'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 Interim 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:

Tone M. Saechao is the subject of four felony counts that are pending in the United States District Court, Western District of Washington at Seattle.

FACTS:

- 1) A Washington State Gambling Commission Special Agent (agent) was assigned to Mr. Saechao's file to investigate if he continues to qualify for licensure while being the subject of pending federal charges.
- 2) As part of the investigation, the agent reviewed Mr. Saechao's licensing file. He applied for and was granted a public card room employee license in 2009. He has maintained his license since then.
- 3) While monitoring his file, the agent saw that on February 21, 2013, an Indictment was filed in the United States District Court, Western District of Washington at Seattle. The Indictment charges Mr. Saechao and his co-conspirators with 16 counts ranging from Conspiracy to Manufacture Marijuana to Possession of a Firearm in Furtherance of a Drug Trafficking Offense. Mr. Saechao was personally charged with the following four counts out of the 16 counts charged among his co-conspirators:

Count 1: Conspiracy to Manufacture Marijuana. Within the last five years and continuing until May 20, 2012, Mr. Saechao and his co-conspirators knowingly and intentionally conspired to manufacture and aided and abetted the conspiracy to manufacture marijuana. The offense involved 100 or more marijuana plants.

Count 2: Manufacture Marijuana. Within the last five years and continuing until May 20, 2012, Mr. Saechao and his co-conspirators knowingly and intentionally manufactured and aided and abetted the manufacture of marijuana. The offense involved 50 or more marijuana plants.

Count 7: Manufacture Marijuana. Within the last five years and continuing until May 20, 2012, Mr. Saechao and his co-conspirators knowingly and intentionally manufactured and aided and abetted the manufacture of marijuana. The offense involved 50 or more marijuana plants.

Count 8: Possession of a Firearm in Furtherance of a Drug Trafficking Offense. On or about March 20, 2012, Ms. Saechao and one of his co-conspirators, did knowingly possess and aid and abet the possession of a firearm in furtherance of a drug trafficking crime.

- 4) On February 21, 2013, an Arrest Warrant was issued for Mr. Saechao.

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
 - (f) Being subject to current prosecution or pending charges, or appealing a conviction, for any of the offenses included under (d) of this subsection;
 - (i) Having pursued or 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; or
 - (j) Being a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates probable cause to believe that the association is of such a nature as to be inimical to the policy of chapter 9.46 RCW or to the proper operation of the authorized gambling or related activities in this state. For the purposes of this section, career offender is defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain utilizing such methods as are deemed criminal violations of the public policy of this state. A career offender cartel is defined as any group of persons who operate together as career offenders.

Tone M. Saechao is subject of four felony counts that are pending in the United States District Court, Western District of Washington at Seattle. The licensee's actions constitute an immediate

danger to public safety and welfare based on WAC 230-17-165(3) (a), (b), (f), (i), and (j), and are a basis for Tone M. Saechao 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.

(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;

(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)² 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;

(11) Is a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates probable cause to believe that the association is of such a nature as to be inimical to the policy of this chapter or to the proper operation of the authorized gambling or related activities in this state. For the purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain utilizing such methods as are

² (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;

deemed criminal violations of the public policy of this state. A career offender cartel shall be defined as any group of persons who operate together as career offenders.

6) 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.

7) RCW 9.46.153 Applicants and licensees — Responsibilities and duties — Waiver of liability — Investigation statement as privileged.

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.

Tone M. Saechao has failed to establish by clear and convincing evidence, as required by RCW 9.46.153(1), that he is qualified to be licensed. In addition, Mr. Saechao is the subject of four felony counts pending in the United States District Court, Western District of Seattle. He has demonstrated through his prior activities and his criminal record involving four pending felonies, that he poses a threat to the effective regulation of gambling and he has pursued economic gain in an occupational manner, in violation of the criminal policy of the state. As a result, there are grounds to revoke Tone M. Saechao's license based on RCW 9.46.075(1), (2), (8), (9), (10) and (11), and WAC 230-03-085(1) and (8).

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II.

The card room employee's actions are an immediate danger to public safety and welfare, and he has failed to comply with chapter 9.46 RCW, and Commission rules. The immediate suspension of Tone M. Saechao's gambling activity is required to protect public safety and welfare.

ORDER

Based on the FINDINGS OF FACT AND CONCLUSIONS OF LAW and the Interim Director's authority under RCW 34.05.422, RCW 9.46.070(17), and WAC 230-17-165, the Interim Director orders that Tone M. Saechao'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.

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