

STATE OF WASHINGTON  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE GAMBLING COMMISSION

Received  
SEP 16 2013  
Gambling Commission  
Comm. & Legal Division

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

TONE M. SAECHAO,  
Kirkland, Washington,  
License no 68-29476,

Licensee.

OAH Docket No. 2013-GMB-0021  
Agency No. CR 2013-00556

FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
INITIAL ORDER REVOKING  
GAMBLING LICENSE

If Tone M. Saechao needs an oral translation of this order into Mien, he may obtain such a translation at no cost to him by calling Evergreen Interpreting Services at 360-954-5114.

### I. ISSUES PRESENTED

- 1.1 Whether the circumstances attributed to the Licensee asserted in the Order of Summary Suspension issued March 27, 2013, occurred.
- 1.2 If so, whether those circumstances constituted a basis for revocation by the Washington State Gambling Commission of the Licensee's public card room employee license.
- 1.3 If so, whether the Licensee nevertheless proved by clear and convincing evidence that he is qualified to hold his license.

### II. ORDER SUMMARY

- 2.1 The circumstances attributed to the Licensee asserted in the Order of Summary Suspension issued on March 27, 2013, occurred.
- 2.2 Those circumstances constituted a basis for revocation by the Washington State Gambling Commission of the Licensee's card room employee license.
- 2.3 The Licensee failed to prove by clear and convincing evidence that he is qualified to hold his license.

### III. HEARING

- 3.1 **Hearing Date:** July 19, 2013
- 3.2 **Administrative Law Judge:** Terry A. Schuh
- 3.3 **Appellant:** Tone M. Saechao did not appear.
- 3.4 **Agency:** Washington State Gambling Commission
- 3.4.1 **Representative:** Gregory J. Rose, Assistant Attorney General
- 3.4.2 **Witness:** Special Agent Julie Sullivan, Washington State Gambling Commission
- 3.5 **Interpreter:** Kenny Thungc
- 3.6 **Exhibits:** Exhibits 1 through 4 were admitted into the record.
- 3.7 **Prima facie case:** The hearing was scheduled to commence at 9:00 a.m. At 9:30, the Licensee having not appeared and having not requested a continuance, the Washington State Gambling Commission moved for permission to present a prima facie case. The motion was granted.

### IV. FINDINGS OF FACT

I find the following facts by a preponderance of the record:

#### Jurisdiction

- 4.1 On March 27, 2013, the Washington State Gambling Commission ("the Commission") issued Findings of Fact, Conclusions of Law, and Order of Summary Suspension of License ("Order of Summary Suspension").
- 4.2 The Order of Summary Suspension became effective when served on Tone M. Saechao.
- 4.3 The Commission served the Order of Summary Suspension on Mr. Saechao by personal service on April 11, 2013. Testimony of Special Agent Julie Sullivan ("Special Agent Sullivan" or "Sullivan").
- 4.4 On April 15, 2013, Mr. Saechao filed both an Application for a Stay Hearing and a Request for an Administrative Hearing. Testimony of Sullivan.

4.5 The Stay Hearing occurred on April 23, 2013.

4.6 Administrative Law Judge Terry A. Schuh issued an Initial Order Denying Stay on May 2, 2013.

4.7 On May 1, 2013, the Commission served on Mr. Saechao the Notice of Hearing for the Administrative Hearing to be conducted on July 19, 2013, at 9:00 a.m. at the Commission's office in Lacey by mailing the Notice of Hearing on May 1, 2013.

#### Mr. Saechao's Public Card Room Employee gambling license

4.8 Mr. Saechao holds a Public Card Room Employee license that was suspended as stated above and expired on August 25, 2013. Ex. 1, pp. 1, 3. The Commission issued the license to Mr. Saechao to work at Club Hollywood Casino in Shoreline. *Id.*

#### The criminal charges

4.9 On February 21, 2013, an indictment was filed in the United States District Court, Western District of Washington, at Seattle. Ex. 2. The indictment collectively charged Mr. Saechao and alleged con-conspirators with 16 criminal counts. *Id.* The indictment charged Mr. Saechao with four counts: one count of conspiracy to manufacture marijuana, two counts to manufacture marijuana, and one count of possession of a firearm in furtherance of a drug trafficking offense. *Id.* All counts were predicated on alleged activity within five years up to and including March 20, 2013. *Id.* The court issued a bench warrant for Mr. Saechao's arrest on February 21, 2013. Ex. 3.

4.10 Mr. Saechao has pled not guilty. Ex. 4. All four felony offenses are still pending and being actively prosecuted. Testimony of Sullivan; Ex. 4.

#### The Commission's investigation

4.11 In August 2012, Special Agent Sullivan was assigned to investigate Mr. Saechao after the Commission learned that Mr. Saechao might be subject to pending federal criminal charges. Testimony of Sullivan.

4.12 At that time, no charges had been filed. Testimony of Sullivan.

4.13 Special Agent Sullivan checked monthly to see if charges had been filed. Testimony of Sullivan.

4.14 In February 2013, Special Agent Sullivan observed that an indictment had

been filed charging Mr. Saechao. Testimony of Sullivan; Ex. 2.

## V. CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, I make the following Conclusions of Law:

### Jurisdiction

5.1 I have jurisdiction over the persons and subject matter herein pursuant to RCW 9.46.140, chapter 34.05 RCW, WAC 230-17-025, and Title 230 WAC.

### Revocation

5.2 “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 and by strict regulation and control.” RCW 9.46.010.

5.3 The Commission is empowered “to adopt such rules and regulations as are deemed necessary to carry out the purposes and provisions” of chapter 9.46 RCW. RCW 9.46.070(14).

5.4 The Commission is empowered “to perform all other matters and things necessary to carry out the purposes and provisions of” chapter 9.46 RCW. RCW 9.46.070(22).

5.5 To that effect, the Commission requires card room employees to be licensed. WAC 230-03-265. The Commission issues such licenses. RCW 9.46.070(17).

5.6 The Commission may revoke or suspend a card room employee license “for any reason or reasons it deems to be in the public interest.” RCW 9.46.075. Such reasons include when the licensee “is subject to current prosecution or pending charges . . . for any of the offenses included under subsection (4) of this section . . .” RCW 9.46.075(9); *see also* WAC 230-17-165(3)(f). The charges listed in subsection (4) include “any crime . . . involving moral turpitude.” RCW 9.46.075(4); *see also* WAC 230-17-165(3)(d)(vii).

5.7 “[D]elivery of a controlled substance . . . involve[s] moral turpitude and is malum in se, rather than malum prohibitum.” *State v. Tuss*, 21 Wn. App. 80, 82 (Div. 2, 1978).

5.8 *Malum in se* means “[a] wrong in itself; an act or case involving illegality

from the very nature of the transaction, upon principles of natural, moral, and public law. . . . An act is said to be *malum in se* when it is inherently and essentially evil, that is, immoral in its nature and injurious in its consequences, without any regard to the fact of its being noticed or punished by the law of the state." Black's Law Dictionary 959 (6<sup>th</sup> ed., 1990).

5.9 *Malum prohibitum* means "[a] wrong prohibited; a thing which is wrong because prohibited; an act which is not inherently immoral, but becomes so because its commission is expressly forbidden by positive law; an act involving an illegality resulting from positive law." Black's Law Dictionary 960 (6<sup>th</sup> ed., 1990).

5.10 *Willful guilty knowledge* "is variously called 'scienter,' 'guilty knowledge,' 'willfulness,' 'evil' or 'felonious' intent. It is a necessary 'element' of a crime involving moral turpitude.' Without a doubt, by contemporary community standards possession and sale of narcotics, unless authorized by law, is a crime which by its very nature involves 'moral turpitude.' Crimes which involve moral turpitude are categorized as crimes *mala in se*." *State v. Hennings*, 3 Wn.App. 483, 489, 475 P.2d 926 (1970).

5.11 "It is impossible for a person to intend to manufacture or deliver a controlled substance without knowing what he or she is doing. By intending to manufacture or deliver a controlled substance, one necessarily knows what controlled substance one possesses as one who acts intentionally acts knowingly." *State v. Sims*, 119 Wn. 2d 138, 142, 829 P.2d 1075 (1992).

5.12 Here, Mr. Saechao is subject to actively prosecution of pending felony drug charges that involve moral turpitude. Accordingly, revoking Mr. Saechao's Public Card Room Employee gambling license is in the public interest by keeping the criminal element out of gambling. Moreover, Mr. Saechao has failed to prove by clear and convincing evidence that he is qualified to be licensed. Therefore, the Commission has established a basis sufficient upon which to revoke Mr. Saechao's gambling license. Thus, Mr. Saechao's gambling license should be revoked.

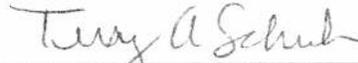
////  
////  
////  
////  
////

## INITIAL ORDER

IT IS HEREBY ORDERED THAT;

Tone M. Saechao's Public Card Room Employee Gambling License No. 68-29476 is **REVOKED**.

**Signed and Issued** at Tacoma, Washington, on the date of mailing.



Terry A. Schuh  
Lead Administrative Law Judge  
Office of Administrative Hearings

## NOTICE TO THE PARTIES

Initial orders must be entered in accordance with RCW 34.05.461(3). WAC 230-17-085(1).

An initial order becomes the final order unless a party files a petition for review of the initial order as explained in WAC 230-17-090. WAC 230-17-085(2).

RCW 34.05.464 governs the review of initial orders. WAC 230-17-090(1).

Any party to an adjudicative proceeding may file a petition for review of an initial order. Parties must file the petition for review with the Washington State Gambling Commission within twenty days of the date of service of the initial order unless otherwise stated. Parties must serve copies of the petition to all other parties or their representatives at the time the petition for review is filed. WAC 230-17-090(2).

Petitions must specify the portions of the initial order the parties disagree with and refer to the evidence in the record on which they rely to support their petition. WAC 230-17-090(3).

Any party to an adjudicative proceeding may file a reply to a petition for review of an initial order. Parties must file the reply with the Washington State Gambling Commission within thirty days of the date of service of the petition and must serve copies of the reply to all other parties or their representatives at the time the reply is filed. WAC 230-17-090(4).

Any party may file a cross appeal. Parties must file cross appeals with the Washington State Gambling Commission within ten days of the date the petition for review was filed with the Washington State Gambling Commission. WAC 230-17-090(5).

Copies of the petition or cross appeal must be served on all other parties or their representatives at the time the petition or appeal is filed. WAC 230-17-090(6).

After the Washington State Gambling Commission receives the petition or appeal, the commissioners review it at a regularly scheduled commission meeting within one hundred twenty days and make a final order. WAC 230-17-090(7).

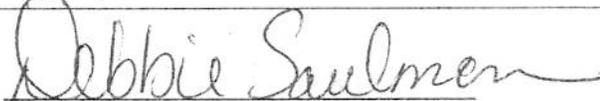
**CERTIFICATION OF MAILING IS ATTACHED**

**Certificate of Service – OAH Docket No. 2013-GMB-0021**

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

<b>Tone M. Saechao</b> 17832 Ashworth Ave North Shoreline, WA 98133-5026	<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
<b>Gregory Rosen</b> 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
<b>Washington State Gambling Commission</b> 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: September 13, 2013



Debbie Saulsman  
Office of Administrative Hearings