STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Summary Suspension of the License to Operate Gambling Activities of:	)	CR 2009-01664
Dawg Tagz II, LLC, d/b/a The Fan Club, Lakewood, Washington,	)	**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER OF SUMMARY SUSPENSION OF LICENSE**
Licensee.	)	

Pursuant to RCW 34.05.422(4), the Washington State Gambling Commission (Commission) may summarily suspend a license pending proceedings for revocation or other action. The Commission has authorized the Director to summarily suspend a license under RCW 9.46.070(17) and WAC 230-17-165.

This matter has been brought before the Director for a summary suspension of The Fan Club's license, and the Director has issued this order and caused it to be served upon the licensee. This order shall be effective immediately upon its service to the licensee, or authorized representative or agent thereof, unless otherwise specified herein. By this authority, an authorized agent of the Commission shall seize The Fan Club's current license authorizing gambling activity and its gambling activities shall cease as ordered.

FINDINGS OF FACT

I.

Rick Day is the Director of the Washington State Gambling Commission and issues this order in that capacity.

II.

Jurisdiction of this proceeding is based on Chapter 9.46 RCW, Gambling, Chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

III.

The Washington State Gambling Commission issued Dawg Tagz II, LLC, d/b/a The Fan Club, 8315 83rd Ave. SW, Lakewood, the following license:

Number: 05-20737 Authorizing Class "G" Punch Board/Pull-Tab activity.

This license, which expires on June 30, 2010, was issued subject to the licensee's compliance with state gambling laws, and Commission rules.

IV.

After a thorough review of the Commission Special Agent's investigative report concerning the facts in this matter, the Director accepts the report as a verity and makes the determination that the action as ordered is warranted.

V.

SUMMARY:

On September 10, 2009, David Garrison, sole owner of Dawg Tags II, LLC, d/b/a The Fan Club (The Fan Club), was charged with Felony Assault 2nd Degree and Felony Harassment. The Fan Club has failed to prove through clear and convincing evidence that it continues to qualify for licensure. These felony charges involve physical harm to an individual and moral turpitude. The Fan Club poses an immediate danger to public safety and welfare, and its license should be summarily suspended.

FACTS:

1) On October 21, 2009, a Commission Special Agent (Agent) was assigned The Fan Club's file for determination of David Garrison's suitability as a substantial interest holder.[1] The agent performed a routine annual criminal history check, and determined that Mr. Garrison was charged on September 10, 2009 with Felony Assault 2nd Degree and Felony Harassment.

2) As part of the investigation, the agent reviewed Mr. Garrison's license history. The agent noted that Mr. Garrison was first licensed with the Commission on August 22, 2007, as sole owner and LLC Manager of Dawg Tagz, LLC, d/b/a Lake City Tavern. David Garrison is the sole owner of the following businesses:

- Dawg Tagz, LLC, d/b/a Lake City Tavern, license number 00-21375, authorizing Class "C" Punch Board/Pull-Tab activity. The license expires September 30, 2010.

- Dawg Tagz II, LLC, d/b/a The Fan Club, license number 00-21674, authorizing Class "G" Punch Board/Pull-Tab activity. The license expires June 30, 2010.

- Dawg Tagz III, LLC, d/b/a C & D Family Restaurant, license number 00-21701, authorizing Class "A" Punch Board/Pull-Tab activity, and Class "A" Commercial Amusement Game activity. Both licenses lapsed October 2, 2009.

[1] A substantial interest holder is defined under WAC 230-03-045 (1) as "a person who has actual or potential influence over the management or operation of any organization, association, or other business entity."

3) On October 20, 2009, the agent obtained a certified copy of the Information and Probable Cause from Pierce County Superior Court for Mr. Garrison's pending case.

4) The Information charges Mr. Garrison with 2nd Degree Felony Assault, and Felony Harassment, occurring on September 9, 2009.

5) The Certification for Declaration for Determination of Probable Cause included the following information:

a) On September 9, 2009, at 10:26 p. m., officers responded to C & D Family Restaurant. There they spoke to Cherith Bearss, who dated Mr. Garrison until two days prior, when they broke up.
b) Ms. Bearss stated to officers that Mr. Garrison had called her 100 times in 24 hours, and that he had been drinking heavily.
c) Ms. Bearss reported that they had been working in the restaurant around closing that day when Mr. Garrison threatened to hang himself in the back room. Ms. Bearss then tried to call Mr. Garrison's sister, but Mr. Garrison ripped the Bluetooth from her ear, with her earring, grabbed her wrist, and took the phone away. Ms. Bearss then stated that Mr. Garrison then used one hand to grab her by the throat and choke her, and said that if hanging himself did not work, he would shoot her and himself.
d) Mr. Garrison was detained, and given his Miranda warnings. He denied assaulting Ms. Bearss, and claimed she called police because "she couldn't get him on suicide." According to officer reports, Ms. Bearss had a visibly swollen wrist, and there was a ladder near the ceiling.

6) As of November 17, 2009, Mr. Garrison had not reported to the Commission the felony charges against him, as required.

CONCLUSIONS OF LAW

I.

1) RCW 9.46.070(17) 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 Director may issue an order 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)(a) provides that the Commission deems the following actions of a licensee constitute an immediate danger to the public safety and welfare: 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.

Mr. Garrison, the sole owner of The Fan Club, is charged with having committed 2nd Degree Felony Assault and Felony Harassment occurring on September 9, 2009. The licensee's actions constitute an immediate danger to public safety and welfare based on WAC 230-17-165(3)(a), and are a basis for immediate cessation of The Fan Club's licensed activities.

4) RCW 9.46.075(1) provides the Commission may revoke any license for any reason or reasons, it deems to be in the public interest.

5) RCW 9.46.075(9) provides that the Commission may revoke a license of any licensee who is subject to current prosecution or pending charges . . . or any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude.

6) WAC 230-03-085(1) and (8) provide that the Commission may revoke a license of any licensee, when the licensee poses a threat to the effective regulation of gaming or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gaming activities as demonstrated by prior activities.

7) RCW 9.46.075(8) provides that the Commission may revoke any license when a licensee fails to prove, by clear and convincing evidence, that it is qualified in accordance with the provisions of this chapter. RCW 9.46.153(1) provides that it shall be the affirmative responsibility of each licensee to establish by clear and convincing evidence the necessary qualifications for licensure.

8) WAC 230-06-085(1) states that licensees must report to the Commission in writing within 30 days of all criminal actions filed against the licensee, manager of the licensed gambling activity, the business organization, or any person holding a substantial interest.

Mr. Garrison is charged with having committed 2nd Degree Felony Assault and Felony Harassment occurring on September 9, 2009. Mr. Garrison failed to report his pending charges, as required, in violation of WAC 230-06-085(1). The licensee poses a threat to the effective regulation of gaming, or increases the likelihood of unfair or illegal practices as demonstrated by his prior activity.

The licensee has also failed to establish clearly and convincingly, as required by RCW 9.46.153(1), that it is qualified to be licensed. Grounds, therefore, exist to revoke The Fan Club's license based on RCW 9.46.075(1), (8), and (9), and WAC 230-03-085(1) and (8).

II.

Immediate cessation of The Fan Club's gambling activity is required for the protection and preservation of the safety and welfare of the public based on The Fan Club's failure to comply with the provisions imposed by chapter 9.46 RCW or any rules adopted by the Commission pursuant to WAC 230-17-165(3)(a).

ORDER

Based on the FINDINGS OF FACT AND CONCLUSIONS OF LAW, it is the ORDER of the undersigned Director, based on the authority granted to him by RCW 9.46.070(17), RCW 34.05.422, and WAC 230-17-165, that The Fan Club's license within the State of Washington is hereby summarily suspended pending a formal hearing by an Administrative Law Judge.

This summary suspension will be effective immediately upon the service of this Order to the licensee or an authorized representative or agent.

STATEMENT OF RIGHTS

1) **You have a right to petition for a stay of this Order**. You may request a stay by filing a written request with the Commission. **Any request for a stay must be received by the Commission within fifteen (15) days** of service of this Order upon you. If a timely request for a stay is received by the Commission, **a hearing regarding a request for stay will be conducted within seven (7) days** in accordance with WAC 230-17-170.

The stay hearing shall be limited to consideration of whether a stay should be granted, or whether the terms of the suspension may be modified. **Furthermore, at the hearing, the licensee shall have the burden of demonstrating by clear and convincing evidence that:**

(a) The licensee is likely to prevail upon the merits at hearing;

(b) Without relief, the licensee will suffer irreparable injury. For purposes of this section, elimination of income from licensed activities shall not be deemed irreparable injury;

(c) The grant of relief will not substantially harm other parties to the proceedings; and

(d) The threat to the public safety or welfare is not sufficiently serious to justify continuation of the suspension, or that modification of the terms of the suspension will adequately protect the public interest.

A request for a stay does not constitute a request for a hearing as provided in paragraph (2) of this Statement of Rights.

(2) **You also have a right to a full hearing on the merits in this matter.** You may request a hearing by completing and returning to the Commission the enclosed Application for Adjudicative Proceeding and Request for Hearing.

Failure to submit the Application for Adjudicative Proceeding and Request for Hearing form within twenty (20) days of service of this order upon you shall result in a waiver of your right to an adjudicative proceeding and entry of an order in default under RCW 34.05.440.

If a timely application for a hearing is received, a hearing shall be conducted no sooner than seven (7) days nor later than 90 days from the date of service of this Order unless otherwise

agreed to by the parties: Provided, that you may waive the seven (7) day notice rule of RCW 34.05.434 and request a hearing at an earlier date. If you have any questions regarding the rights stated above, please contact Staff Attorney, Brenda Bono at (800) 345-2529 ext. 3470.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

Rick Day, being first duly sworn on oath, deposes and says: He has read this Order of Summary Suspension of The Fan Club's License, knows the contents, and believes the same to be true, and that he is the duly appointed and qualified Director of the Washington State Gambling Commission and in that capacity has executed this Order of Summary Suspension of the License.

RICK DAY, ~~DIRECTOR~~

SUBSCRIBED AND SWORN TO before me this 25 day of November, 2009.

Michelle M Pardee
NOTARY PUBLIC in and for the State of Washington, residing at Lacey.
My commission expires June 16, 2013.