

WASHINGTON STATE  
OFFICE OF ADMINISTRATIVE HEARINGS

WSGC

In the matter of:

Andrew L. Williams,

Appellant.

Docket No. 08-2018-GMB-00067

MAY 20 2019

INITIAL ORDER

RECORDS

Agency: Washington State Gambling  
Commission

Program: Gambling Commission

Agency No. 2018-00287

1. ISSUES:

- 1.1. Whether the Appellant, Andrew L. Williams, based on his actions on December 3, 2017, cannot prove by 'clear and convincing evidence' he is qualified for licensure, as required by Revised Code of Washington (RCW) 9.46.153(1)?
- 1.2. Whether the Gambling Commission is authorized to revoke Mr. Williams' Public Card Room Employee License, pursuant RCW 9.46.075(1) & (8) and/or Washington Administrative Code (WAC) 230-03-085(1)&(9)(a)?

2. ORDER SUMMARY:

- 2.1. **Set Aside.** The Appellant, Andrew L. Williams, is qualified for licensure, consistent with RCW 9.46.153(1).
- 2.2. **Modified.** A **one-year suspension** of the Appellant's Public Card Room Employee License is appropriate, based on WAC 230-17-025(3) and WAC 230-17-137.

3. HEARING:

- 3.1. Hearing Date: March 20, 2019
- 3.2. Admin. Law Judge: TJ Martin
- 3.3. Appellant: Andrew L. Williams
  - 3.3.1. Representative: The Appellant represented himself.
  - 3.3.2. Witnesses: The Appellant did not call any witnesses.
- 3.4. Agency: Washington State Gambling Commission Staff
  - 3.4.1. Representative: Kellen Wright, Assistant Attorney General
  - 3.4.2. Witnesses: Carl Cronk, Mountlake Terrance Police Officer  
Wally Ng, Red Dragon Casino Poker Floor Supervisor  
Jason Robinson, Edmonds Police Officer

3.5. Exhibits: Roger Suave, Gambling Commission Special Agent  
Gambling Commission Staff's Exhibits 1 through 11  
were admitted.

Appellant's Exhibit 1 through 6 were admitted.

3.6. Observers: James Cantrell, in support of the Appellant.

#### **4. FINDINGS OF FACT:**

The undersigned administrative law judge finds the following facts by a 'preponderance of the evidence':

##### ***Jurisdiction-***

4.1. On May 14, 2018, the Washington State Gambling Commission ('Commission Staff') filed 'Notice of Administrative Charges CR 2018-00287 against Andrew L. Williams ('Appellant' and/or 'Williams').

4.2. On June 6, 2018, Williams appealed of the Administrative Charges.

##### ***December 3, 2017 Incident-***

4.3. The Red Dragon Casino is located at 21917 Highway 99, Mountlake Terrance, Washington. *Testimony of Carl Cronk ('Testimony of Cronk') and Exhibit ('Ex.') 2.*

4.4. On December 3, 2017, just after 3:00 a.m., a Red Dragon Casino poker dealer called over Poker Floor Supervisor Wally Ng regarding a disturbance at the poker table. *Testimony of Wally Ng ('Testimony of Ng') and Ex. 5.*

4.5. At the poker table, Ng observed the Appellant, Andrew L. Williams, arguing and shouting, including the use of profanity, with another poker player. Ng did not know the nature of the argument between Williams and the other player. *Testimony of Ng and Ex. 5.*

4.6. Upon seeing the disruption involving Williams, Poker Floor Supervisor Ng told the poker dealer to "deal him out", meaning, to stop dealing to Williams. *Testimony of Ng and Ex. 5.*

4.7. After being 'dealt out', Williams remained at the poker table and continued to argue with a female patron. The poker game did not continue. *Testimony of Ng and Ex. 5.*

4.8. The female patron assaulted Williams during the course of the argument at the poker table. *Testimony of Williams.*

4.9. The poker dealer observed the female patron strike Williams on the hand with her phone during the incident, but he did nothing to intervene. *Ex. 8.*

4.10. Ng approached the poker table for a second time. This time, Ng asked Williams to leave. Williams refused. *Testimony of Ng and Ex. 5.*

- 4.11. Ng then threatened to call the police. Williams again refused to leave. *Testimony of Ng and Ex. 5.*
- 4.12. With Williams refusing to leave, Ng called the police. *Testimony of Ng and Ex. 5.*
- 4.13. Officer Jason Robinson of the Edmonds Police Department responded to the '911' call placed by Red Dragon Casino Poker Floor Supervisor Wally Ng. *Testimony of Jason Robinson (Testimony of Robinson) and Ex. 1.*
- 4.14. Upon entering the Red Dragon Casino, Officer Robinson immediately identified Williams, since he matched the description of the disruptive individual provided by Ng over the telephone. *Testimony of Robinson and Ex. 1.*
- 4.15. At the time, Williams remained at the poker table, arguing with the other patron. *Testimony of Robinson and Ex. 1.*
- 4.16. Officer noted Williams was animated, talking loudly and referencing an assault. *Testimony of Robinson and Ex. 1.*
- 4.17. Officer Robinson asked Williams twice to leave. *Testimony of Robinson and Ex. 1.*
- 4.18. Williams complied with Officer Robinson's request by grabbing his poker chips and moving towards the podium to cash them out. *Testimony of Robinson and Ex. 1.*
- 4.19. Once at the podium, Williams repeatedly requested an 'incident report' from Ng, but was given no report. *Testimony of Robinson and Ex. 1.*
- 4.20. Williams asked Ng for an 'incident report' since he thought he would be fired if he did not file a report about the incident with his employer. *Testimony of Williams.*
- 4.21. Fearing Williams might assault Ng, Officer Robinson grabbed Williams by one of his triceps to remove him from the casino. *Testimony of Robinson and Ex. 1.*
- 4.22. On the way out of the casino, as he was being escorted by Officer Robinson, Williams continued to yell towards the female patron with whom he argued at the poker table. *Testimony of Robinson and Ex. 1.*
- 4.23. At the doorway, Officer Robinson let go of Williams, who then pushed the officer. Officer Robinson stepped back and radioed other police officers to "step it up", meaning to hurry to the location. *Testimony of Robinson and Ex. 1.*
- 4.24. Once outside, Williams, still animated and arguing, approached Officer Robinson and pointed towards him. Officer Robinson slapped Williams' hand down and pushed him back, placing his hand on Williams' upper chest. *Testimony of Robinson and Ex. 1.*
- 4.25. Fearing an assault, when Williams approached Officer Robinson for a third time, the officer moved into a defensive, 'bladed' stance to defend himself. *Testimony of Robinson and Ex. 1.*

- 4.26. At that time, Officer Carl Cronk, along with Officer David Nguyen, from the Mountlake Terrance Police Department, arrived at the Red Dragon Casino. *Testimony of Carl Cronk (Testimony of Cronk) and Exs. 2-4.*
- 4.27. Upon arriving, Mountlake Terrance Police Officers observed Williams yelling that Officer Robinson had assaulted him. Williams began to approach the arriving officers, but Officer Robinson stepped in to stop his advance. *Testimony of Cronk and Exs. 2-4.*
- 4.28. Officer Cronk observed Williams' anger towards him and the other police officers at the scene. Officer Nguyen talked with Williams until he calmed down. *Testimony of Cronk and Exs. 2 & 3.*
- 4.29. Williams left a short time later, without further incident. *Testimony of Cronk and Exs. 2 & 3.*
- 4.30. The entire incident involving Williams at the casino lasted less than 20 minutes. *Ex. 11.*
- 4.31. The Mountlake Terrace Police Department issued a 'Criminal Trespass Notice' to Williams to not enter onto the Red Dragon Casino property for one year. *Testimony of Cronk and Exs. 2 & 7.*
- 4.32. Williams was not criminally charged as a result of the December 3, 2017 incident. *Testimony of Cronk.*

***Investigation-***

- 4.33. Based on the December 3, 2017 incident involving Williams, Washington State Gambling Commission Special Agent Roger Suave conducted an investigation of the incident. *Testimony of Roger Suave (Testimony of Suave).*
- 4.34. Special Agent Suave reviewed the police reports and surveillance video from the December 3, 2017 incident. He issued a 'Case Report', based on his investigation. *Testimony of Suave and Exs. 6 & 9-11.*
- 4.35. Special Agent Suave concluded Williams' actions on December 3, 2017 fell below the expectations of gambling licensees, based on his failure to comply with lawful orders, disorderly conduct and actions resulting in multiple police departments being involved in the incident. *Testimony of Suave.*
- 4.36. Williams used profanity during the argument with the female patron. He apologized to the other players at the time. *Testimony of Williams and Ex. 8.*
- 4.37. Williams was never contacted by the Gambling Commission regarding his version of the events on December 3, 2017. *Testimony of Williams.*
- 4.38. Williams provided written documentation reciting his version of the events. *Appellant's Exhibits ('App's Ex.') 1-5.*

- 4.39. Williams, an experienced poker dealer, believes how the poker dealer and floor supervisor handled the matter only escalated the unfortunate situation. *Testimony of Williams.*
- 4.40. No evidence establishes Williams was under the influence of alcohol and/or drugs at the time of the December 3, 2017 incident.
- 4.41. Williams admitted his actions on December 3, 2017 were wrong, including not leaving when requested to do so and touching Officer Robinson, when Williams was asked to leave. *Testimony of Williams.*
- 4.42. Williams has been a licensed card dealer for 20 years, without any previous disciplinary issues or sanctions. *Testimony of Williams.*
- 4.43. Several people in the gaming industry, though not privy to the events of December 3, 2017, provided letters of support of Williams, attesting to his professionalism and good nature as a poker dealer and co-worker. *App's Ex. 6.*

## **5. CONCLUSIONS OF LAW:**

Based upon the facts above, the undersigned administrative law judge makes the following conclusions:

### ***Jurisdiction-***

- 5.1. The Office of Administrative Hearings (OAH) has jurisdiction over the persons and subject matter of this case under Revised Code of Washington (RCW) 9.46.140(2)&(4), Washington Administrative Code (WAC) 230-17-001(2), WAC 230-17-025 and Chapters 34.05 and 34.12 RCW.

### ***Gambling Commission's Enforcement of Gaming Rules and Regulation-***

- 5.2. RCW 9.46.010 establishes:

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.

- 5.3. RCW 9.46.040 authorizes the Washington State Gambling Commission to enforce the rules and regulations relating to gambling activities in the State of Washington.

[Continued]

### ***Burden of Proof-***

5.4. The burden of proof is on the Gambling Commission Staff to prove the administrative charges by a 'preponderance of the evidence'. However, this burden does not apply to 'Issue No. 1' regarding whether the Appellant can establish by 'clear and convincing evidence' he is qualified for licensure.

5.5. A 'preponderance of the evidence' is evidence which, when fairly considered, produces the stronger impression, has the greater weight, and is more convincing as to its truth when weighed against the evidence in opposition thereto. *Yamamoto v. Puget Sound Lbr. Co.*, 84 Wash. 411, 146 Pac. 861 (1915).

### ***Clear and Convincing Evidence-***

5.6. RCW 9.46.153(1) requires applicants to prove their eligibility for a license:

It shall be the affirmative responsibility of each...licensee to establish by clear and convincing evidence the necessary qualifications for licensure of each person required to be qualified under this chapter,...[.]”

5.7. 'Clear and convincing evidence', as the term is used in RCW 9.46.153(1), is a higher burden of proof than 'preponderance of the evidence.' See *Hardee v. Department of Social and Health Services*, 172 Wn.2d 1, 6-18, 256 P.3d 339 (2011).

5.8. Based on the evidence, with the exception of the December 3, 2017 incident, the Appellant has had no previous disciplinary actions or sanctions against him in his 20 years in the gaming industry.

5.9. For these reasons, Andrew L. Williams, is qualified for licensure, consistent with RCW 9.46.153(1).

5.10. Therefore, the Gambling Commission's 'Notice of Administrative Charges' regarding this issue is **SET ASIDE**.

### ***Temporary Suspension of Appellant's Public Card Room Employee License-***

5.11. RCW 9.46.075 establishes:

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:

- (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;

5.12. Further, WAC 230-03-085 establishes the Washington State Gambling Commission, in relevant part, may:

[D]eny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

- (1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075;
- (9) 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;...

5.13. However, the presiding officer may modify an administrative penalty sought by gambling commission staff against a licensee. WAC 230-17-025(3).

5.14. In addition, WAC 230-17-137 'Guidelines for imposing penalties in disciplinary actions', in relevant part, provides:

(1) Without in any manner limiting the authority granted to the commission under chapter 9.46 RCW or other applicable law to impose the level and type of discipline it may deem appropriate, at the request of any party, the presiding officer may consider the following factors, along with such others as he or she deems relevant, in determining the administrative penalty to be assessed for the violation of a statute or rule:

- (a) The risk posed to the public health, safety, or welfare by the violation;
- (b) Whether there are special policy implications relating to the violation, for example, those regarding underage gambling;
- (c) Whether, and how, the violations impacted players, for example, failure to pay a player, and player-supported jackpot violations;
- (d) Whether the applicant, licensee, or permittee:

- (i) Knew, or reasonably should have known, the action complained of was a violation of any law, regulation, or condition of their license;
  - (ii) Previously received a verbal warning, written warning, notice of infraction, notice of violation and settlement (NOVAS), or administrative charges from the commission for similar violations;
  - (iii) Made, or attempted to make, a financial gain from the violation;
  - (iv) Had an existing compliance program related to the violation; or
  - (v) Has subsequently initiated remedial measures to prevent similar violations from reoccurring;
- (e) Whether the violations were intentional, willful, or grossly negligent;
- (f) Whether requiring the applicant, licensee or permittee to implement a written self-enforcement and compliance program would assist in ensuring future compliance with relevant laws, regulations, and license conditions;
- (g) If the violation was caused by an officer or employee of the applicant, licensee, or permittee:
- (i) Whether the individual who caused the violation acted within the scope of authority granted to him or her by the applicant, licensee or permittee; or
  - (ii) Whether the individual violated company policies, procedures, or other standards;
- (h) The adequacy of any relevant training programs the applicant, licensee or permittee previously offered or made available to its employees;
- (i) Whether and the extent to which the applicant, licensee or permittee cooperated with the commission during the investigation of the violation;
- (j) The penalties imposed on other applicants, licensees or permittees for similar violations;
- (k) Whether the applicant, licensee, or permittee reasonably relied upon professional advice from an accountant or other recognized professional, which was relevant to the conduct or action resulting in the violation; or
- (l) Any other aggravating or mitigating circumstances the presiding officer deems relevant.

5.15. The December 3, 2017 incident marks the first time the Appellant has been involved in any kind of incident involving the Gambling Commission. The Appellant has no previous violations or sanctions in his 20-year gaming career. The incident occurred while Williams was a patron, and not while engaged in regulated work as a card room employee. He gained nothing financially from the incident. Weighing these and other factors established in WAC 230-17-137, the incident did not impact players or the general public, at large.

5.16. Further, the Appellant admitted to the wrongdoing and acknowledged he could have handled the situation better.

5.17. While the Gambling Commission Staff argues revocation of the Appellant's License is appropriate. However, revocation of the Appellant's gaming license for a one-time, isolated incident does not warrant such an extreme, punitive measure.

5.18. Based on WAC 230-17-025(3) and WAC 230-17-137, a **one-year suspension** of the Appellant's Public Card Room Employee License is appropriate.

5.19. Therefore, the Gambling Commission's 'Notice of Administrative Charges' regarding this issue is **MODIFIED**.

## 6. INITIAL ORDER

### IT IS HEREBY ORDERED THAT:

6.1. **Set Aside.** The Appellant, Andrew L. Williams, is qualified for licensure, consistent with RCW 9.46.153(1).

6.2. **Modified.** A **one-year suspension** of the Appellant's Public Card Room Employee License is appropriate, based on WAC 230-17-025(3) and WAC 230-17-137.

Issued from Tacoma, Washington on the date of mailing.



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TJ Martin  
Administrative Law Judge  
Office of Administrative Hearings

**CERTIFICATE OF SERVICE ATTACHED**

## PETITION FOR REVIEW

Any party to this proceeding may file a Petition for Review of this initial order. The written petition for review must be mailed to the Washington State Gambling Commission at:

Washington State Gambling Commission  
PO Box 42400  
Olympia, WA 98504

The petition for review must be received by the Commission within twenty (20) days from the date this initial order was mailed to the parties. A copy of the petition for review must be sent to all parties of record. The petition for review must specify the portions of the initial order with which the party disagrees, and must refer to the evidence in the record which supports the party's position. The other party's reply must be received at the address above, and served on all parties of record, within thirty (30) days from the date the petition for review was mailed.

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. 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.

**CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 08-2018-GMB-00067**

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

<p>Andrew L. Williams 21920 86th Place West Edmonds, WA 98026 <b><i>Appellant</i></b></p>	<p><input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>
<p>Kellen Wright, AAG Office of the Attorney General MS: 40100 PO Box 40100 Olympia, WA 98504 <b><i>Agency Representative</i></b></p>	<p><input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input checked="" type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>
<p>Ashlie Laydon Washington State Gambling Commission MS: 42400 PO Box 42400 Olympia, WA 98504 <b><i>Agency Contact</i></b></p>	<p><input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input checked="" type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>

Date: Friday, May 17, 2019

OFFICE OF ADMINISTRATIVE HEARINGS

*Hailey Miles*

Hailey Miles  
Legal Assistant 3

