

WASHINGTON STATE  
OFFICE OF ADMINISTRATIVE HEARINGS

WSGC  
OCT 02 2019  
RECORDS

In the matter of:

Ronald Bruneau,

Appellant/Applicant.

Docket No. 07-2019-GMB-00107

**INITIAL ORDER GRANTING GAMBLING  
COMMISSION STAFF'S MOTION FOR  
SUMMARY JUDGMENT**

Agency: Washington State Gambling  
Commission

Program: Gambling Commission

Agency No. 2019-00650

**1. ISSUES:**

- 1.1. Does a genuine dispute of material fact exist as to whether Ronald Bruneau's past actions constitute a sufficient basis for denial of a license in accordance with Revised Code of Washington (RCW) 9.46.075 and Washington Administrative Code (WAC) 230-03-085?
- 1.2. Does a genuine dispute of material fact exists as to whether Ronald Bruneau cannot prove by 'clear and convincing evidence' he is qualified for licensure, as required by RCW 9.46.153(1)?
- 1.3. Whether the Gambling Commission is authorized to deny Ronald Bruneau's Public Card Room Employee License Application based on RCW 9.46.075(1)&(8) and WAC 230-03-085(1),(3),&(9)(a),(c)&(d)?
- 1.4. If Ronald Bruneau's Public Card Room Employee License Application is denied, whether an evidentiary, fact-finding hearing is warranted?

**2. ORDER SUMMARY:**

- 2.1. No genuine dispute of material fact exists as to whether Ronald Bruneau's past actions constitute a sufficient basis for denial of a license in accordance with RCW 9.46.075 and WAC 230-03-085. The Gambling Commission Staff's Motion for Summary Judgment is **GRANTED**.
- 2.2. No genuine dispute of material fact exists as to whether Ronald Bruneau cannot prove by 'clear and convincing evidence' he is qualified for licensure, as required by RCW 9.46.153(1). The Gambling Commission Staff's Motion for Summary Judgment is **GRANTED**.
- 2.3. The Gambling Commission is authorized to deny Ronald Bruneau's Public Card Room Employee License Application based on RCW 9.46.075(1)&(8) and WAC 230-03-085(1),(3),&(9)(a),(c)&(d). The Gambling Commission's 'Denial of

Public Cardroom Employee Application' regarding Ronald Bruneau, is **AFFIRMED**.

- 2.4. Since the denial of Ronald Bruneau's Public Card Room Employee License Application is **AFFIRMED**, no fact-finding hearing is warranted. Therefore, the evidentiary hearing, scheduled for Thursday, October 31, 2019, is **CANCELLED**.

**3. GAMBLING COMMISSION STAFF'S MOTION FOR SUMMARY JUDGMENT:**

- 3.1. Hearing Date: The Gambling Commission Staff's Motion for Summary Judgment decided without oral argument.
- 3.2. Admin. Law Judge: TJ Martin
- 3.3. Appellant: Ronald Bruneau (Appellant)
- 3.4. Agency: Gambling Commission Staff (Commission Staff)
- 3.4.1. Representative: Kellen Wright, Assistant Attorney General
- 3.5. Documents Considered: The following documents were considered for purposes of the Gambling Commission Staff's Motion for Summary Judgment:

Doc. No.	Document Name	Document Date	No. Pages
1	Gambling Commission's Denial of Public Cardroom Employee Application	05/24/19	5
2	Appellant's Request for Administrative Hearing	06/18/19	3
3	Office of Administrative Hearings (OAH) Prehearing Conference Order	07/22/19	7
4	Gambling Commission Staff's Motion for Summary Judgment	08/12/19	6
5	Declaration of Special Agent Julie Sullivan in Support of Gambling Commission Staff's Motion for Summary Judgment, with attached Exhibits 1-5	08/12/19	24
7	OAH Status Conference Order Establishing Summary Judgment Briefing Schedule	08/27/19	3

**4. FACTS FOR PURPOSE OF SUMMARY JUDGMENT:**

***Jurisdiction-***

- 4.1. On May 24, 2019, the Washington State Gambling Commission issued the 'Denial of Public Cardroom Employee Application' (Denial) regarding Ronald Bruneau (Bruneau). The Gambling Commission's Denial asserted Bruneau was not

qualified for licensure based on his past actions and failure to prove qualification for licensure.

- 4.2. On June 18, 2019, the Appellant contested the Gambling Commission's Denial and requested an administrative hearing.

***Gambling Commission Staff's Motion for Summary Judgment-***

- 4.3. On August 12, 2019, the Gambling Commission Staff filed a Motion for Summary Judgment, along with the Declaration of Julie Sullivan in Support of Commission Staff's Motion for Summary Judgment, with attached Exhibits 1-5.
- 4.4. The Appellant did not file a response to the Gambling Commission Staff's Motion for Summary Judgment.
- 4.5. As of the date of this Initial Order, the Appellant has failed to file any response, or provide any documentation, challenging the Gambling Commission Staff's motion.

***Bruneau's Previous Administrative Violation History and License Revocation-***

- 4.6. In 2014, the Appellant, Ronald Bruneau, was a licensed Public Card Room Employee at the Buzz Inn Casino, in East Wenatchee, Washington. *Dec. of Sullivan: Exhibit (Ex.) 2.*
- 4.7. Between July 16, 2014 and September 22, 2014, Gambling Commission Agent Brian Lane conducted an investigation regarding card dealers at the Buzz Inn Casino failing to disclose all tips earned. The Gambling Commission's investigation included review of Bruneau's tips disclosure. *Dec. of Sullivan: Ex. 3.*
- 4.8. On September 22, 2014, Bruneau agreed to Washington State Gambling Commission 'Notice of Violation and Settlement' (NOVAS 03496). In the settlement of the 'Notice of Violation', Bruneau admitted to violating WAC 230-03-085, regarding his failure to disclose all tips. As a part of the settlement, he agreed to pay a \$ 200 penalty within 15 days. *Dec. of Sullivan: Ex. 4.*
- 4.9. Bruneau failed to pay the \$200 penalty to the Gambling Commission within 15 days of September 22, 2014, or at all. *Dec. of Sullivan: Ex. 2.*
- 4.10. On November 25, 2014, the Gambling Commission issued a 'Notice of Administrative Charges' against Bruneau for his failure to pay the \$200 penalty as a part of his September 22, 2014 NOVAS. Bruneau failed to respond to the administrative charges. *Dec. of Sullivan: Ex. 2.*
- 4.11. On February 13, 2015, the Gambling Commission revoked Bruneau's Public Card Room Employee License. *Dec. of Sullivan: Ex. 2.*

***Bruneau's Card Room Employee License Application & Investigation-***

- 4.12. On March 6, 2019, Bruneau submitted a Card Room Employee (CRE) License Application to the Washington State Gambling Commission. *Dec. of Sullivan: Ex. 2, Pg. 3 and Ex. 5.*
- 4.13. From March 6, 2019 to April 17, 2019, Gambling Commission Special Agent Julie Sullivan conducted an investigation regarding Bruneau's CRE License Application. *Dec. of Sullivan: Ex. 2.*
- 4.14. Gambling Commission Special Agent Sullivan determined: Bruneau did not disclose the previous 2014 administrative action against him; failed to mention the NOVAS from 2014; failed to explain his non-payment of the \$200 penalty; and failed to disclose the revocation of his CRE License in 2015. *Dec. of Sullivan: Ex. 2.*
- 4.15. Based on her investigation, Gambling Commission Special Agent Julie Sullivan recommended denial of Bruneau's Public Card Room Employee License Application. *Dec. of Sullivan: Ex. 2; Pg. 5.*
- 4.16. On May 24, 2019, Washington State Gambling Commission Director, David Trujillo, issued 'Denial of Public Card Room Employee Application' for Ronald Bruneau. *Dec. of Sullivan: Ex. 1.*

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

### ***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) 230-17-025 and Chapters 34.05 and 34.12 RCW.

### ***Summary Judgment Motions, Applicable Statutes, Regulations and Case Law-***

- 5.2. WAC 10-08-135 'Summary judgment' provides:

A motion for summary judgment may be granted and an order issued if the written record shows that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.
- 5.3. "Summary judgment is appropriate only where the undisputed facts entitle the moving party to judgment as a matter of law." *Verizon NW, Inc. v. Employment Sec. Dep't*, 164 Wn.2d 909, 916 (2008), *citing Alpine Lakes Prot. Soc'y v. Dep't of Natural Res.*, 102 Wn. App. 1, 14 (1999).
- 5.4. Admissions, stipulations, procedural history, and uncontested declarations and affidavits establish facts for summary judgment.
- 5.5. In Superior Court matters, CR 56 governs summary judgment. Where the relevant procedural rules do not conflict with CR 56, it and the cases interpreting it serve

as persuasive authority in the management of summary judgment under WAC 10-08-135.

- 5.6. Civil Rule 56(e) provides: "If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party."

***Gambling Commission Policy, Rules & Regulations-***

- 5.7. RCW 9.46.010 establishes, in relevant part:

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.

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

- 5.9. RCW 9.46.075 provides, in relevant part, the Gambling Commission may deny a license application, revoke or suspend a license for:

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW...;

(7) Makes a misrepresentation of, or fails to disclose, a material fact to the commission;

(8) Fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this chapter;...

- 5.10. WAC 230-03-085 also authorizes the Gambling Commission to deny, suspend or revoke any application, license or permit, for any of the following reasons, in relevant part:

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

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level; or

(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; or

(c) Reputation; or

(d) Habits;...

- 5.11. In the present case, in 2014, Bruneau entered into a settlement (NOVAS) with the Gambling Commission, as a part of resolving a Notice of Violation. He agreed to pay the Gambling Commission a \$200 penalty, then failed to do. Later, the Gambling Commission issued an Administrative Violation Notice (AVN) for his failure to pay the \$200 penalty. He did not challenge the AVN. In 2015, the Gambling Commission revoked his gaming license due to his failure to pay the agreed \$200 penalty.
- 5.12. In March 2019, Bruneau submitted a Public Card Room Employee License Application. In his license application, he failed to disclose the NOVAS, the AVN for his failure to pay the \$200 agreed penalty and the revocation of his gaming license in 2015.
- 5.13. Appellant Bruneau, by his failure to disclose his previous administrative history, including revocation of gaming license in 2015 in his CRE License Application, showed a willful disregard for the rules and regulations of the Gambling Commission.
- 5.14. Appellant Bruneau did not file any response to the Gambling Commission's Motion for Summary Judgment, contesting he failed to disclose his previous administrative actions, including the revocation of his gaming license in 2015.
- 5.15. Therefore, the Appellant Bruneau has raised no genuine dispute of material fact as to whether his past actions constitute a sufficient basis for the denial of his Public Card Room Employee License Application in accordance with RCW 9.46.075 and WAC 230-03-085. Therefore, the Gambling Commission Staff's Motion for Summary Judgment is **GRANTED**.

***Respondent's Failure to Establishing 'Clear and Convincing Evidence' of Licensure-***

- 5.16. RCW 9.46.153(1) establishes:

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;

- 5.17. In the present case, the Gambling Commission Staff established Appellant Bruneau, in his Public Card Room Employee License Application, failed to disclose: His NOVAS in 2014; Failure to pay the \$200 penalty and resulting AVN; and Revocation of his gaming license in 2015.

- 5.18. Appellant Bruneau failed to respond to the Gambling Commission Staff's Motion for Summary Judgment. In fact, as of the date of this order, he has not filed any response or presented any evidence demonstrating he is qualified for gaming licensure. As a result, Appellant Bruneau has failed to prove, by 'clear and convincing evidence', he is qualified for licensure.
- 5.19. Therefore, the Appellant Bruneau raised no genuine dispute of material fact that he cannot show by 'clear and convincing evidence' that he is qualified for licensure, as required by RCW 9.46.153(1). Therefore, the Gambling Commission Staff's Motion for Summary Judgment is **GRANTED**.

***Denial of the Respondent's Gaming License Application-***

- 5.20. RCW 9.46.075 authorizes the Gambling Commission to deny a gaming license application for any of the following reasons, in relevant part:
- (1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW...;
  - (7) Makes a misrepresentation of, or fails to disclose, a material fact to the commission;
  - (8) Fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this chapter;
- 5.21. WAC 230-03-085, in relevant part, authorizes the Gambling Commission to deny a gaming license application if the applicant:
- (1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075; or
  - (3) He/she demonstrates a willful disregard of applicable gaming rules and regulations; or
  - (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; or
    - (c) Reputation; or
    - (d) Habits; or
- 5.22. In the present case, the Gambling Commission Staff has established the Appellant Bruneau failed to disclose material facts as a part of his license application, in violation of RCW 9.46.075 and WAC 230-03-085. The Appellant also failed to establish, by 'clear and convincing evidence', that he is qualified for licensure. The Appellant did not challenge the facts, as asserted by the Gambling Commission, in its Motion for Summary Judgment. Therefore, the Gambling Commission Staff's Motion for Summary Judgment was granted.

5.23. Based the Gambling Commission Staff's Motion for Summary Judgment being granted, in accordance with RCW 9.46.075(1) and (8), and WAC 230-03-085(1),(3),(9)(a),(c)&(d), the denial of Ronald Bruneau's Public Card Room License Application is **AFFIRMED**.

***Evidentiary Hearing Cancellation-***

5.24. Since the denial of Ronald Bruneau's Public Card Room Employee Application is **AFFIRMED**, no fact-finding hearing is warranted. Therefore, the evidentiary hearing, scheduled for Thursday, October 31, 2019, is **CANCELLED**.

**6. INITIAL ORDER:**

**THIS ADMINISTRATIVE COURT ORDERS:**

- 6.1. No genuine dispute of material fact exists as to whether Ronald Bruneau's past actions constitute a sufficient basis for denial of a license in accordance with RCW 9.46.075 and WAC 230-03-085. The Gambling Commission Staff's Motion for Summary Judgment is **GRANTED**.
- 6.2. No dispute issue of material fact exists as to whether Ronald Bruneau cannot prove by 'clear and convincing evidence' he is qualified for licensure, as required by RCW 9.46.153(1). The Gambling Commission Staff's Motion for Summary Judgment is **GRANTED**.
- 6.3. The Gambling Commission is authorized to deny Ronald Bruneau's Public Card Room Employee License Application under RCW 9.46.075(1)&(8) and WAC 230-03-085(1),(3),&(9)(a),(c)&(d). The Gambling Commission's 'Denial of Public Cardroom Employee Application' regarding Ronald Bruneau, is **AFFIRMED**.
- 6.4. Since the denial of Ronald Bruneau's Public Card Room Employee License Application is **AFFIRMED**, no fact-finding hearing is warranted. Therefore, the evidentiary hearing, scheduled for Thursday, October 31, 2019, is **CANCELLED**.

**SIGNED** at Tacoma, Washington on the date of mailing.



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TJ Martin  
Administrative Law Judge  
Office of Administrative Hearings

**CERTIFICATE OF SERVICE IS 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.

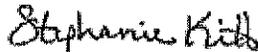
**CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 07-2019-GMB-00107**

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

Ronald Bruneau 150 N. June Avenue East Wenatchee, WA 98802 <b>Appellant</b>	<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
Kellen Wright, AAG Office of the Attorney General MS: 40100 PO Box 40100 Olympia, WA 98504 <b>Agency Representative</b>	<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:
Ashlie Laydon Washington State Gambling Commission MS: 42400 PO Box 42400 Olympia, WA 98504 <b>Agency Contact</b>	<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

Date: Tuesday, October 01, 2019

OFFICE OF ADMINISTRATIVE HEARINGS



Stephanie Kitt  
 Legal Assistant 2