

OCT 18 2019

RECORDS

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

Docket No. 07-2019-GMB-00106

Ching Lin,

**INITIAL ORDER ON SUMMARY
JUDGMENT MOTION**

Appellant.

Agency: Gambling Commission
 Program: Washington State Gambling
 Commission
 Agency No. 2019-00746

Simplified Chinese

本文件包含有关您听证会的重要信息。如果您没有出席或采取其他措施，您可能会失去重要权利。如果您在理解本文件方面需要帮助，请致电1-800-845-8830。

Traditional Chinese

本檔案包含有關您聽證會的重要資訊。如果您沒有出席或採取其他措施，您可能會失去重要權利。如果您在理解本檔案方面需要幫助，請致電1-800-845-8830。

1. ISSUES:

- 1.1. Does a genuine dispute of material fact exist as to whether Ching Lin (Appellant) reported criminal charges within thirty days of the charges being filed as required by Washington Administrative Code (WAC) 230-06-085(1)?
- 1.2. Does a genuine dispute of material fact exist as to whether Appellant disclosed the Violation of Uniform Controlled Substance Act (VUCSA) charge, as required by Revised Code of Washington (RCW) 9.46.170?
- 1.3. Does a genuine dispute of material fact exists as to whether Appellant can prove by 'clear and convincing evidence' she is qualified for licensure, as required by RCW 9.46.153(1)?
- 1.4. Whether the Gambling Commission is authorized to revoke Appellant's Public Card Room Employee License (CRE License) based on RCW 9.46.075(1),(2),(8)&(9) and WAC 230-03-085(1),(8),&(9)(a)?
- 1.5. If Appellant's CRE License is revoked, whether an evidentiary, fact-finding hearing is warranted?

2. ORDER SUMMARY:

- 2.1. No genuine dispute of material fact exists as to whether Appellant reported criminal charges within thirty days of the charges being filed as required by WAC 230-06-085(1). The Gambling Commission's Motion for Summary Judgment is **GRANTED**.
- 2.2. No genuine dispute of material fact exists as to whether Appellant disclosed the VUCSA charge, as required by RCW 9.46.170. The Gambling Commission's Motion for Summary Judgment is **GRANTED**.
- 2.3. The Gambling Commission is authorized to revoke Appellant's CRE License based on RCW 9.46.075(1),(2),(8)&(9) and WAC 230-03-085(1),(8),&(9)(a). The Gambling Commission's revocation of Appellant's CRE License, is **AFFIRMED**.
- 2.4. Since the revocation of Appellant's CRE License is **AFFIRMED**, no fact-finding hearing is warranted. Therefore, the evidentiary hearing, scheduled for Wednesday, November 6, 2019, is **CANCELLED**.

3. GAMBLING COMMISSION'S MOTION FOR SUMMARY JUDGMENT:

- 3.1. Hearing Date: The Gambling Commission's Motion for Summary Judgment decided without oral argument.
- 3.2. Admin. Law Judge: Dan Gerard
- 3.3. Appellant: Ching Lin
- 3.4. Agency: Gambling Commission
 - 3.4.1. Representative: Kellen Wright, AAG Assistant Attorney General
- 3.5. Documents Considered: The following documents were considered for purposes of the Gambling Commission's Motion for Summary Judgment:

Doc. No.	Document Name	Document Date	No. Pages
1	Gambling Commission's Notice of Administrative Charges	06/17/19	6
2	Appellant's Request for Administrative Hearing	06/28/19	3
3	Office of Administrative Hearings (OAH) Prehearing Conference Order	08/06/19	8
4	Gambling Commission's Motion for Summary Judgment	08/13/19	6
5	Declaration of Special Agent Julie Sullivan in Support of Gambling Commission's Motion for Summary Judgment, with attached Exhibits 1-5	08/13/19	39

4. FACTS FOR PURPOSE OF SUMMARY JUDGMENT:

Jurisdiction

- 4.1. On June 17, 2019, the Washington State Gambling Commission issued the Notice of Administrative Charges revoking the CRE License of the Appellant, Ching Lin. The Gambling Commission's revocation asserted Appellant's License, Number 68-07018, was revoked for failing to disclose criminal charges within thirty days of the filing of the charges and for failing to disclose the charges when renewing her CRE License.
- 4.2. On June 28, 2019, the Appellant contested the Gambling Commission's revocation of her CRE License and requested an administrative hearing.

Gambling Commission Motion for Summary Judgment

- 4.3. On August 13, 2019, the Gambling Commission filed a Motion for Summary Judgment, along with the Declaration of Julie Sullivan in Support of Commission's Motion for Summary Judgment, with attached Exhibits 1-5.
- 4.4. The Appellant did not file a response to the Commission'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 Commission's motion.

Appellant's Card Room Employee License Renewal Application & Investigation

- 4.6. On October 31, 2018, the Appellant and a co-defendant were charged with a Violation of the Uniform Controlled Substance Act (VUCSA) for unlawfully and feloniously manufacturing marijuana, a crime involving moral turpitude. *Dec. of Sullivan: Ex. 2, Ex. 3.*
- 4.7. On November 29, 2018, the Appellant was arraigned on the charge. *Dec. of Sullivan: Ex. 2.*
- 4.8. The Appellant never reported the charge to the Gambling Commission. *Dec. of Sullivan: Ex. 2.*
- 4.9. On April 17, 2019, Appellant submitted a CRE License online renewal application with the Gambling Commission. *Dec. of Sullivan: Ex. 1, Pg. 1 and Ex. 5.*
- 4.10. In completing the renewal application, the Appellant chose the response "I have not had any criminal action filed against me within the last 12 months", in the 'Criminal History' section of the application. *Dec. of Sullivan: Ex. 2.*

- 4.11. On April 29, 2019, Gambling Commission Special Agent Julie Sullivan conducted an investigation regarding Appellant's CRE License renewal application. *Dec. of Sullivan: Ex. 2.*
- 4.12. Special Agent Sullivan determined the Appellant did not disclose that the Appellant was charged with a Violation of the Uniform Controlled Substance Act on October 31, 2018, within thirty days of the filing of the charge or when renewing her CRE License on April 17, 2019. *Dec. of Sullivan: Ex. 2.*
- 4.13. Based on her investigation Special Agent Sullivan recommended the revocation of the Appellant's CRE License for not disclosing the criminal charge within thirty days as required by WAC 230-06-085(1) and not disclosing the criminal charge in her CRE License renewal application. *Dec. of Sullivan: Ex. 2.*
- 4.14. On June 17, 2019, Gambling Commission Director, David Trujillo, issued the Notice of Administrative Charges revoking the Appellant's CRE License. *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 Gambling Commission to enforce the rules and regulations relating to gambling activities in the State.

- 5.9. WAC 230-06-085 provides, in relevant part:

- (1) Licensees must report to us in writing within thirty days all criminal actions filed against the licensee, any manager of the licensed gambling activity, the business organization, or any person holding a substantial interest in the business organization.

- 5.10. RCW 9.46.170 provides in relevant part:

Whoever, in any application for a license or in any book or record required to be maintained by the commission or in any report required to be submitted to the commission, shall make any false or misleading statement, or make any false or misleading entry or willfully fail to maintain or make any entry required to be maintained or made, or who willfully refuses to produce for inspection by the commission, or its designee, any book, record, or document required to be maintained or made by federal or state law, shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021.

- 5.11. The Gambling Commission may deny a license application, revoke or suspend a license for:

- Violating, failing or refusing to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW...;
- 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;
- Failing to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this chapter 9.46 RCW or,

- Being subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses included under subsection (4) of this section.

RCW 9.46.075(1),(2),(8),and (9).

5.12. The Gambling Commission is authorized to deny, suspend or revoke any application, license or permit, for any of the following reasons, in relevant part:

- Committing any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075; or
- Failing to provide the Gambling Commission with any information required under commission rules within the time required, or, if the rule establishes no time limit, within thirty days after receiving a written request from us;
- Posing a threat to the effective regulation of gambling, or creating or increasing the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by prior activities.

WAC 230-03-085(1),(8), and (9)(a).

5.13. 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;

5.14. In the present case, on October 31, 2018, the Appellant was charged with a Violation of the Uniform Controlled Substance Act for unlawfully and feloniously manufacturing marijuana, a crime involving moral turpitude.

5.15. Appellant, by failing to disclose the criminal charge within thirty days to the Gambling Commission, showed a willful disregard for the rules and regulations of the Gambling Commission.

5.16. Appellant, by failing to disclose the criminal charge on her CRE License renewal application to the Gambling Commission, showed a willful disregard for the rules and regulations of the Gambling Commission.

- 5.17. Appellant did not file any response to the Commission's Motion for Summary Judgment, contesting she failed to disclose (a) her criminal charge within thirty days of the filing of the charge or (b) the criminal charge on her CRE License renewal application.
- 5.18. Therefore, the Appellant has raised no genuine dispute of material fact as to whether or not her failure to disclose the criminal charge constitute a sufficient basis for the revocation of her Public Card Room Employee License renewal application in accordance with RCW 9.46.075 and WAC 230-03-085. Therefore, the Commission's Motion for Summary Judgment is **GRANTED**.
- 5.19. Based the Gambling Commission's Motion for Summary Judgment being granted, in accordance with RCW 9.46.075(1),(2),(8)&(9) and WAC 230-03-085(1),(8),&(9)(a), the revocation of the Appellant's CRE License is **AFFIRMED**.
- 5.20. Since the revocation of the Appellant's CRE License is **AFFIRMED**, no fact-finding hearing is warranted. Therefore, the evidentiary hearing, scheduled for Wednesday, November 6, 2019, is **CANCELLED**.

6. INITIAL ORDER:

- 6.1. No genuine dispute of material fact exists as to whether reported criminal charge within thirty days of the charge being filed as required by WAC 230-06-085(1). The Commission's Motion for Summary Judgment is **GRANTED**.
- 6.2. No genuine dispute of material fact exists as to whether Appellant disclosed a VUCSA charge, as required by RCW 9.46.170. The Commission Motion for Summary Judgment is **GRANTED**.
- 6.3. The Gambling Commission is authorized to revoke Appellant's CRE License based on RCW 9.46.075(1),(2),(8)&(9) and WAC 230-03-085(1),(8),&(9)(a). The Gambling Commission's revocation of Appellant's CRE License, is **AFFIRMED**.
- 6.4. Since the revocation of Appellant's CRE License is **AFFIRMED**, no fact-finding hearing is warranted. Therefore, the evidentiary hearing, scheduled for Wednesday, November 6, 2019, is **CANCELLED**.

SIGNED at Tacoma, Washington on the date of mailing.



Dan Gerard
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-00106

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

<p>Ching Lin 2408 SE 2nd Ct Renton, WA 98056 Appellant</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 Agency Representative</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 Agency Contact</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: Thursday, October 17, 2019

OFFICE OF ADMINISTRATIVE HEARINGS

Stephanie Kitt

Stephanie Kitt
Legal Assistant 2

