

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

Vicky Son,

Appellant.

License No. 68-21971

Docket No. 08-2020-GMB-00157

**INITIAL ORDER ON
SUMMARY JUDGMENT MOTION**

Agency: Gambling Commission
Program: Washington State Gambling
Commission
Agency No. CR-2020-00712

Language Access Notice

English

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Vietnamese

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1. ISSUES:

- 1.1. Whether no genuine dispute of material fact exists as to:
- 1.2. Whether Appellant, Vicky Son failed to report to the Washington State Gambling Commission that she was charged with Malicious Mischief in the Third Degree in violation of WAC 230-06-085?
- 1.3. Whether Appellant, Vicky Son has failed to comply with the provisions, requirements, conditions, limitation or duties imposed by the Gambling Act, which is grounds to revoke a license under RCW 9.46.075(1), (7), and (8)?
- 1.4. Whether Appellant, Vicky Son cannot prove by clear and convincing evidence she is qualified for licensure, as required by RCW 9.46.153(1)?
- 1.5. Whether the Washington State Gambling Commission is authorized to revoke the Appellant, Vicky Son's Public Card Room Employee license, pursuant to RCW 9.46.075(1),(7), and (8), RCW 9.46.153(1), WAC 230-03-085(1), (3), (8), and (9)(a), (b), (c), and (d)?

2. ORDER SUMMARY:

- 2.1. No genuine dispute of material fact exists as to whether Appellant, Vicky Son failed to report to the Washington State Gambling Commission that she was charged with Malicious Mischief in the Third Degree in violation of WAC 230-06-085. The Gambling Commission’s Motion for Summary Judgment is **GRANTED**.
- 2.2. Appellant, Vicky Son has failed to comply with the provisions, requirements, conditions, limitation or duties imposed by the Gambling Act, which is grounds to revoke a license under RCW 9.46.075(1), (7), and (8).
- 2.3. Appellant, Vicky Son cannot prove by ‘clear and convincing evidence’ she is qualified for licensure, as required by RCW 9.46.153(1).
- 2.4. The Washington State Gambling Commission is authorized to revoke the Appellant, Vicky Son’s Public Card Room Employee license, pursuant to RCW 9.46.075(1),(7), and (8), RCW 9.46.153(1), WAC 230-03-085(1), (3), (8), and (9)(a), (b), (c), and (d). The Gambling Commission’s revocation of Appellant’s Public Card Room Employee license, is **AFFIRMED**.

3. GAMBLING COMMISSION’S MOTION FOR SUMMARY JUDGMENT:

- 3.1. Hearing Date: No oral arguments
- 3.2. Administrative Law Judge: Travis Dupree
- 3.3. Appellant: Vicky Son
- 3.4. Agency: Gambling Commission
 - 3.4.1. Representative: Doug Van de Brake, Assistant Attorney General
- 2.5. Documents Considered: I considered the following documents:

Doc. No.	Document Name	Document Date	No. Pages
1	Gambling Commission’s Notice of Administrative Charges	07/27/20	6
2	Appellant’s Request for Administrative Hearing	08/04/20	2
3	Office of Administrative Hearings (OAH) Prehearing Conference Order	10/15/20	8
4	Gambling Commission’s Motion for Summary Judgment	11/13/20	7
5	Declaration of Special Agent Mark Harris in Support of Gambling Commission’s Motion for Summary Judgment, with attached Exhibits 1-3	11/10/20	124

4. FACTS FOR PURPOSE OF SUMMARY JUDGMENT:

Jurisdiction

- 4.1. On July 27, 2020, the Washington State Gambling Commission issued the Notice of Administrative Charges revoking the Public Card Room Employee license of Appellant, Vicky Son. The Gambling Commission's revocation asserted Appellant's License, Number 68-21971, was revoked for failing to report that she was charged with Malicious Mischief in the Third Degree in violation of WAC 230-06-085.
- 4.2. On August 4, 2020, the Appellant contested the Gambling Commission's revocation of her Public Card Room Employee license and requested an administrative hearing.

Gambling Commission Motion for Summary Judgment

- 4.3. On November 13, 2020, the Gambling Commission filed a Motion for Summary Judgment.
- 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 Charged with Malicious Mischief in the Third Degree

- 4.6. Appellant, Vicky Son, is licensed as a Public Card Room Employee at Macau Casino. *Declaration of Harris.*
- 4.7. On July 22, 2019, the Appellant damaged property at her ex-husband's residence, including using a rock to break the front and back windows of her ex-husband's vehicle, removing light bulbs from exterior lamps and smashing them on the driveway, and kicking the Ring doorbell camera and pulling it off the wall. *Exhibit 1 and 2*
- 4.8. On March 20, 2020, the Appellant was charged with Malicious Mischief in the Third Degree in Tacoma Municipal Court. *Exhibit 1.*
- 4.9. The Appellant did not notify the Gambling Commission regarding the charge of Malicious Mischief in the Third Degree within 30 days. *Declaration of Harris and Exhibit 2.*

Appellant's Public Card Room Employee license Revocation & Investigation

- 4.10. In September 2019, Gambling Commission Special Agent Mark Harris began an investigation regarding a verbal and physical altercation between the Appellant and another off duty card room employee for Macau Casino. Special Agent Harris

became aware that the Appellant was being investigated by the Tacoma Police Department regarding an unrelated criminal matter. *Declaration of Harris.*

- 4.11. On April 28, 2020, Gambling Commission Special Agent Mark Harris became aware that the Appellant had been charged with Malicious Mischief in the Third Degree. *Declaration of Harris, Exhibit 1, and 2.*
- 4.12. Based on his investigation, Special Agent Harris recommended the revocation of Appellant's Public Card Room Employee license for failing to report that she was charged with Malicious Mischief in the Third Degree. *Declaration of Harris and Exhibit 2.*
- 4.13. On July 27, 2020, Gambling Commission Director, David Trujillo, issued the Notice of Administrative Charges revoking Appellant's Public Card Room Employee license. *Declaration of Harris and Exhibit 3.*

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. 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...;
- Making a misrepresentation of, or failing to disclose, a material fact to 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.

RCW 9.46.075(1), (7), & (8).

5.1. 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

(8) Fails to provide us 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; 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
- (b) Criminal record; or; or
- (c) Reputation; or
- (d) Habits;...

5.2. 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;

5.3. In the present case, on March 20, 2020, the Appellant was charged with Malicious Mischief in the Third Degree. Appellant did not notify the Gambling Commission regarding the charge of Malicious Mischief in the Third Degree within 30 days

5.4. Appellant did not file any response to the Commission's Motion for Summary Judgment, contesting she failed to disclose her criminal charge within thirty days of the filing of the charge.

5.5. The Appellant has raised no genuine dispute of material fact as to whether or not she failed to disclose her Malicious Mischief in the Third Degree charge to the Gambling Commission within 30 days. As such, the Appellant failed to comply with the provisions, requirements, conditions, limitation or duties imposed by the Gambling Act. Per RCW 9.46.075(1), (7), and (8), and WAC 230-06-085, the Commission's Motion for Summary Judgment is **GRANTED**.

5.6. The Gambling Commission is authorized to revoke Appellant, Vicky Son's Public Card Room Employee license, pursuant to RCW 9.46.075(1),(7), and (8), RCW 9.46.153(1), WAC 230-03-085(1), (3), (8), and (9)(a), (b), (c), and (d). The Gambling Commission's revocation of Appellant, Vicky Son's Public Card Room Employee license, is **AFFIRMED**.

- 5.7. Since the revocation of Appellant's Public Card Room Employee license is **AFFIRMED**, no fact-finding hearing is warranted. Therefore, the evidentiary hearing, scheduled for March 9, 2021, is **CANCELLED**.

6. INITIAL ORDER:

- 6.1. No genuine dispute of material fact exists as to whether Appellant, Vicky Son failed to report to the Washington State Gambling Commission that she was charged with Malicious Mischief in the Third Degree in violation of WAC 230-06-085. The Gambling Commission's Motion for Summary Judgment is **GRANTED**.
- 6.2. Appellant, Vicky Son has failed to comply with the provisions, requirements, conditions, limitation or duties imposed by the Gambling Act, which is grounds to revoke a license under RCW 9.46.075(1), (7), and (8).
- 6.3. Appellant, has not proven by 'clear and convincing evidence' he is qualified for licensure, as required by RCW 9.46.153(1).
- 6.4. The Commission is authorized to revoke the Appellant, Vicky Son's Public Card Room Employee license, pursuant to RCW 9.46.075(1),(7), and (8), RCW 9.46.153(1), WAC 230-03-085(1), (3), (8), and (9)(a), (b), (c), and (d). The Gambling Commission's revocation of Appellant, Vicky Son's Public Card Room Employee license, is **AFFIRMED**.
- 6.5. Therefore, the evidentiary hearing, scheduled for March 9, 2021, is **CANCELLED**.

SIGNED at Tacoma, Washington on the date of mailing.



Travis Dupree
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. 08-2020-GMB-00157

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

<p>Vicky Son 13440 6th Avenue South Burien, WA 98168 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 vickyson3479@gmail.com</p>
<p>Doug Van de Brake, 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 type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> E-mail doug.vandebrake@atg.wa.gov jordan.nimon@atg.wa.gov</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 type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> E-mail ashlie.laydon@wsgc.wa.gov legal@wsgc.wa.gov</p>

Date: Monday, January 04, 2021

OFFICE OF ADMINISTRATIVE HEARINGS

Carla Sullivan

Carla Sullivan
Legal Assistant 4