

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Summary Suspension of the)
License to Operate Gambling Activities of:)
)
Phuc P. Doan)
Federal Way, Washington,)
)
)
Licensee.)

NO. CR 2010-01421

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER OF SUMMARY
SUSPENSION OF LICENSE**

RCW 9.46.070(17) authorizes the Director of the Washington State Gambling Commission (Commission) to summarily suspend¹ a license, subject to final action by the Commission. The Director has reviewed this Order of Summary Suspension and has issued it for service.

This order takes effect when served on the licensee, representative, or agent. A Commission Special Agent shall seize Phuc P. Doan's license and he must immediately stop conducting gambling activities.

FINDINGS OF FACT

I.

Rick Day is Director of the Washington State Gambling Commission and issues this order. Jurisdiction of this proceeding is based on chapter 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and Title 230 WAC.

II.

The Washington State Gambling Commission issued Phuc P. Doan the following license:

Number: 68-16301, authorizing Card Room Employee activity at Silver Dollar Casino in SeaTac.

The Commission issued this license, which expires on November 19, 2011, subject to the licensee's compliance with state gambling laws and Commission rules.

¹ WAC 230-17-165 defines summary suspension as immediately taking a license or permit from a person or organization which prevents them from operating or conducting gambling activities.

III.

After a thorough review of a Commission Special Agent's report about the facts in this matter, the Director accepted the report as true and determined that the summary suspension is necessary.

IV.

SUMMARY:

The licensee, Phuc P. Doan was convicted on October 29, 2010, of three counts of Violation of the Uniform Controlled Substances Act, Manufacture with Intent to Deliver Marijuana (class C felony) and one count of Money Laundering (class B felony). The licensee failed to report to Commission staff within 30 days that in May 2010, criminal charges were filed against him. He did not report it until November 2010.

FACTS:

(1) On November 5, 2010, the licensee, Phuc P. Doan, submitted his gambling license renewal application with the following statement: "My name is Phuc Doan, I recently accept [*sic*] a plea bargain from King County Court. I am not sure what crime it put me in. Pls [*sic*] talk to my lawyer attach business card [*sic*]."

(2) A Commission Special Agent began investigating the licensee's suitability and qualification for licensure. She reviewed the licensing file and the licensee's court records.

(3) The licensee disclosed on his November 2010 renewal application that he had been charged with a crime, but he failed to disclose that he had been convicted. Furthermore, the licensee failed to disclose within 30 days that he had been charged in May 2010.

(4) The agent verified that the licensee was convicted on October 29, 2010 of three counts of Violation of the Uniform Controlled Substances Act, Manufacture with Intent to Deliver Marijuana (class C felony), a crime of moral turpitude and one count of Money Laundering (class B felony). The licensee was originally charged with seven counts of Violation of the Uniform Controlled Substances Act, and one count of Money Laundering. The agent also verified the following information from court documents:

(a) In August 2007, police executed search warrants as part of a lengthy investigation into a conspiracy to manufacture marijuana and money laundering.

(b) The licensee owned two out of three "grow" houses; where police found sophisticated marijuana grow operations consisting of 357 marijuana plants in one house, and 512 in the other.

(c) The licensee said he grew marijuana at the houses and was responsible for growing and tending to the marijuana.

(d) The licensee was released after police finished questioning him, and on May 12, 2010, the King County Prosecutor charged the licensee via Information.

(e) The licensee stated the following in the Statement of Defendant on Plea of Guilty, dated October 5, 2010:

i) "From March 3, 2007 continuing through August 29, 2007 I participated in an unlawful marijuana manufacturing operation and in the same time period conducted a financial transaction involving the proceeds of this illegal act."

(f) The licensee's Judgment and Sentence was signed by the court on October 29, 2010. The court sentenced the licensee to nine months of Electric Home Detention and 12 months of community custody. The licensee must also pay \$600 in court fees plus restitution (to be determined at a later date) and must obtain a substance abuse evaluation and follow all treatment recommendations.

CONCLUSIONS OF LAW

I.

(1) **RCW 9.46.070** 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 Commission delegates its authority to the Director 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)** The Commission deems the following actions of a licensee constitute an immediate danger to the public safety and welfare:
(The following subsections apply.)

(a) 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; or

(d)(vii) Being convicted of, or forfeiting of a bond on a charge of, or having pled guilty to any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude.

(h) Making a misrepresentation of, or failure to disclose, a material fact to the Commission.

(4) RCW 9.46.075 Denial, suspension, or revocation of license, application, or permit

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: (The following subsections apply.)

(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.

(4) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude.

(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 is qualified in accordance with the provisions of this chapter.

(10) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain.

(5) WAC 230-03-085 Denying, suspending, or revoking an application, license or permit

We may deny, 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:

(The following subsections apply.)

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

(5) Is serving a period of probation or community supervision imposed as a sentence for any juvenile, misdemeanor, or felony criminal offense, whether or not the offense is covered under RCW 9.46.075(4).

(7) 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.

(8) 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 (c) Reputation; or (d) Habits; or (e) Associations.

(6) **RCW 9.46.153(1)** Applicants and licensees-Responsibilities and duties
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.

(7) **WAC 230-06-085(1)** provides licensees must report to us in writing within thirty days all criminal actions filed against the licensee.

The licensee, Phuc P. Doan, pled guilty and was convicted on October 29, 2010, of three counts of Violation of the Uniform Controlled Substances Act, Manufacture with Intent to Deliver Marijuana (class C felony), a crime of moral turpitude and one count of Money Laundering (class B felony). The licensee failed to report to Commission staff within 30 days that in May 2010, criminal charges were filed against him, as required by WAC 230-06-085(1).

The licensee's actions constitute an immediate danger to public safety and welfare based on WAC 230-17-165(3) (a), (d), and (h), and are a basis for immediate cessation of Mr. Doan's card room employee activities.

The licensee has also failed to prove by clear and convincing evidence that he is qualified to hold a license, in violation of RCW 9.46.153. Grounds, therefore, exist to revoke Phuc P. Doan's license based on RCW 9.46.075(1), (4), (7), (8), and (10), and WAC 230-03-085(1), (5), (7) and (8).

II.

Phuc P. Doan's actions constitute an immediate danger to public safety and welfare. The licensee has failed to comply with chapter 9.46 RCW and Commission rules. The immediate suspension of Phuc P. Doan's gambling activity is required to protect and preserve public safety and welfare.

ORDER

Based on the FINDINGS OF FACT AND CONCLUSIONS OF LAW, and the Director's authority under RCW 9.46.070(17), RCW 34.05.422, and WAC 230-17-165, the Director orders the summary suspension of Phuc P. Doan's licensee pending a formal hearing by an Administrative Law Judge for the revocation of his license.

STATEMENT OF RIGHTS

(1) You may ask for a stay of this Order. To do so, you must complete and return to the Commission the enclosed Application for Stay Hearing form within fifteen (15) days from the date you receive this Order. If the Commission receives a timely request, we will hold a hearing within seven (7) days as required by WAC 230-17-170(3). The stay hearing will determine if your suspension should continue, or whether the suspension may be modified.

At the stay hearing, you will have to prove by clear and convincing evidence that:

- (a) You will likely win at hearing; and
(b) If your suspension continues, you will suffer serious injury. Under this section, loss of income from licensed activities is not considered serious injury; and
(c) Removing the immediate suspension will not hurt others in this case; and
(d) The threat to the public safety or welfare does not justify continuing the suspension, or that modifying the suspension will adequately protect the public.

(2) You also have a right to a hearing on the revocation of your license. To do so, you must complete and return to the Commission the enclosed Application for Hearing form within twenty (20) days from the date you receive this order. If you do NOT request a hearing, we will enter an Order of Default revoking your license under RCW 34.05.440.

If you have any questions regarding the rights stated above, please contact Arlene Dennistoun, Staff Attorney, at (360) 486-3469 or 1-800-345-2529, extension 3469.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

Rick Day, under oath, declares that he has read this Order of Summary Suspension of License, knows its contents, and believes it to be true, and affirms that he is the Director of the Washington State Gambling Commission and in that capacity has executed this Order of Summary Suspension of the License.

[Handwritten signature of Rick Day]

RICK DAY, DIRECTOR

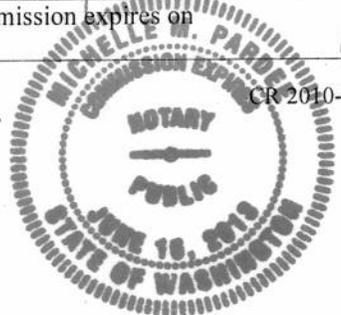
SUBSCRIBED AND SWORN TO before me this 19 day of January, 2011.

[Handwritten signature of Michelle M. Pardee]

NOTARY PUBLIC in and for the State of Washington, residing at:

[Handwritten signature: Lacey]

My Commission expires on 6/16/2013



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