

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Summary Suspension of the)
License to Operate Gambling Activities of:)
)
Kelly Bang)
Maple Valley, Washington,)
)
)
Licensee.)

NO. CR 2011-00068

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

RCW 9.46.070(17) authorizes 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 Kelly Bang's license and he must 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 Kelly Bang license number 68-28872, authorizing Card Room Employee activity at Roxy's Casino and Magic Lanes, both in Seattle. The Commission issued this license, which expires on December 19, 2011, subject to the licensee's compliance with state gambling laws and Commission rules.

III

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 the report by a Commission Special Agent about the facts in this matter, the Director accepts the report as true and has determined that the summary suspension is necessary.

IV.

SUMMARY:

On December 17, 2010, Kelly Bang was charged with First Degree Theft, a felony. Mr. Bang allegedly engaged in an act of fraud and deceit when he took \$10,303 in cash while working as the Financial Manager for a motorcycle dealership.

FACTS:

1) On December 17, 2010, Kelly Bang submitted a Card Room Employee application and disclosed the following criminal history:

- 2008, traffic/speeding ticket, paid fine;
- 2009, speeding, paid fine; and
- "12-2-10 Arrested- No charges suspicion of theft," "Released- no charges filed 12-4-10."

2) Commission staff sent Mr. Bang's fingerprint cards to the Washington State Patrol and the FBI for review of his criminal history. Additionally, Commission staff did a background check on Mr. Bang and there was no additional information from what Mr. Bang disclosed on his application. Therefore, based on the information known at the time, on December 21, 2010, Mr. Bang was issued a Card Room Employee license.

3) On January 6, 2011, Commission staff received information from the Washington State Patrol and FBI that Mr. Bang was charged with First Degree Theft. As a result, a Commission Special Agent (agent) requested and received court documents on Mr. Bang's pending First Degree Theft charge.

4) The Information filed in King County Superior Court on December 17, 2010, charged Mr. Bang with First Degree Theft and alleged:

- a) Between September 4, 2010, and October 7, 2010, Mr. Bang with intent to deprive another of property, cash payments, did wrongfully obtain such property belonging to Downtown Harley Davidson.
- b) The thefts were a series of transactions that were part of a criminal episode or common scheme or plan with the value of the property taken exceeding \$5,000.

- 5) The Probable Cause filed in King County Superior Court on December 17, 2010, states:
- a) Mr. Bang worked for Downtown Harley Davidson (in Renton) as a Financial Manager for eight months. Mr. Bang would handle the financial part of agreements (deals) that a salesperson would make with customers.
 - b) Mr. Bang was required to immediately electronically document the amount and types of payment received for the deals and place the payment (usually cash or checks) in a safe for the accounting department.
 - c) After Downtown Harley Davidson terminated Mr. Bang, another Financial Manager for the business discovered that on three occasions when Mr. Bang received cash payments from customers he did not document the cash payments or turn in the cash to the accounting department. Additionally, Mr. Bang attempted to cover up a shortage for a \$5,000 cash deal by taking a check from a different customer, who dealt with a different Financial Manager, and applying it to his cash deal.
 - d) The missing cash totaled \$10,303.

CONCLUSIONS OF LAW

I.

1) **RCW 9.46.070(17)** 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 Summary suspensions.**

(1) "Summary suspension" means immediately taking a license or permit from a person or organization which prevents them from operating or conducting gambling activities.

(2) The Commission delegates its authority to the director to issue an order to summarily suspend any license or permit 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) 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.

(f) Being subject to current prosecution or pending charges, or appealing a conviction, for any of the offenses included under (d)² of this subsection.

² 230-17-165(3)(d) Being convicted of, or forfeiting of a bond on a charge of, or having pled guilty to: (ii) Larceny.

(i) Having pursued or 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.

Kelly Bang has a pending First Degree Theft charge for allegedly taking \$10,303 from Downtown Harley Davidson, while working as their Financial Manager.

Mr. Bang's alleged actions demonstrate:

- a) He pursued economic gain in an occupational manner that creates probable cause to believe that his participation in gambling or related activities would be detrimental to the operation of gambling activities; and
- b) He poses a threat to the effective regulation of gambling, creates, or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities.

Mr. Bang's actions constitute an immediate danger to public safety and welfare based on WAC 230-17-165(3)(a), (f), and (i) and are a basis for the Director to order he immediately stop conducting gambling activities.

3) RCW 9.46.075 Denying, suspending, or revoking an application, license or permit.

The Commission may 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.

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

(9) Is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses included under subsection (4)³ of this section: PROVIDED, That at the request of an applicant for an original license, the commission may defer decision upon the application during the pendency of such prosecution or appeal.

³ 230-03-085(4) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to larceny.

(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.

4) WAC 230-03-085 Denying, suspending, or revoking an application, license or permit.

We may 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; or

(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.

5) 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.

Mr. Bang poses a threat to the effective regulation of gambling, or increases the likelihood of unfair or illegal practices as demonstrated by his pending First Degree Theft charge for allegedly taking \$10,303 from Downtown Harley Davidson while working as their Financial Manager. Additionally, Mr. Bang allegedly tried to cover up a \$5,000 shortage for one of the cash payments by using a different customer's check to cover the shortage. Mr. Bang pursued economic gain in an occupational manner that creates probable cause to believe that his participation in gambling or related activities would be detrimental to the operation of gambling activities.

Kelly Bang has failed to establish clearly and convincingly that he is qualified to be licensed, as required by RCW 9.46.153(1). As a result, grounds exist to revoke Mr. Bang's license based on RCW 9.46.075(1), (8), (9), and (10) and WAC 230-03-085(1) and (8).

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II.

Kelly Bang's actions are an immediate danger to public safety and welfare, and the licensee has failed to comply with chapter 9.46 RCW or Commission rules. The immediate suspension of Mr. Bang's license to conduct gambling activity is required to protect public safety and welfare.

ORDER

Based on the FINDINGS OF FACT AND CONCLUSIONS OF LAW and the Director's authority under RCW 34.05.422, RCW 9.46.070(17), and WAC 230-17-165, the Director orders that Kelly Bang's license is summarily suspended, pending a formal hearing by an Administrative Law Judge.

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 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.

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