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STATE OF WASHINGTON  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE GAMBLING COMMISSION

GAMBLING COMMISSION  
COMM & LEGAL DIVISION

In the Matter of the Suspension or  
Revocation of the License to Conduct  
Gambling Activities of:

MICHAEL D. STAFFORD-SWITZER  
Yakima, Washington

Licensee.

OAH Docket No. 2012-GMB-0045

WSGC No. CR 2012-00639

INITIAL ORDER

1 **HEARING:**

1.1 This case came before Administrative Law Judge Douglas H. Haake for an administrative hearing on September 19, 2012, at the Washington State Gambling Commission Hearing Room in Lacey, Washington, after due and proper notice to all parties. The hearing was digitally recorded.

1.2 Michael D. Stafford-Switzer, Licensee; Mr. Stafford-Switzer's fiancé, Jessica Jacobsen observed.

1.3 The Washington State Gambling Commission (Commission) appeared through legal counsel, Marissa Broggel, Assistant Attorney General. Stephanie U. Happold, AAG, observed.

1.4 Special Agent Julie Sullivan, investigator for the Commission, appeared and testified on behalf of the Commission.

1.5 The Commission presented 20 exhibits, all of which were admitted

2 **STATEMENT OF THE ISSUES:**

2.1 Whether Mr. Stafford-Switzer's public card room employee license should be revoked for failing to report convictions and/or committed findings to the Commission, and failure to comply with court orders.

3 **ORDER SUMMARY:**

3.1 Mr. Stafford-Switzer's public card room license is **REVOKED**.

4

FINDINGS OF FACT:

4.1 Special Agent Julie Sullivan has been with the Washington Gambling Commission for over 11 years. She is currently assigned to the Commission's Criminal History Investigation unit. She has undergone 240 hours of Commission training and Washington Criminal Justice Academy training in securing court records and police reports. She has received training as and is a nationally certified fraud investigator. Special Agent Sullivan is in her senior year at Washington State University, studying criminal justice with a minor in sociology. Agent Sullivan testimony.

4.2 Michael D. Stafford-Switzer has held a Public Card Room Employee license off and on since he was first licensed in 2008. Most recently he has worked at RC's in Sunnyside. He did not renew his license in 2009. He filed a new application in 2011, and renewal application in 2012. *Id.*

4.3 On his May 16, 2011, the Commission received Mr. Stafford-Switzer's application to reinstate his lapsed license. Exhibit 2. The application includes an inquiry to the applicant as follows:

CRIMINAL HISTORY STATEMENT

Have you ever:

1. Forfeited bail or paid a fine over \$25 (incl. traffic fines)?
2. Been arrested?
3. Been charged with a crime?
4. Been convicted?
5. Been jailed?
6. Been placed on probation?
7. Been under court supervision?
8. Had a gambling license denied, revoked or suspended?

*Id.* page 2.

4.4 There are check boxes for "yes" or "no", and a requirement that if "yes" is checked, the applicant must: "provide an explanation on a separate sheet of paper, including all dates and specifics". *Id.* Mr. Stafford-Switzer checked the "yes" box. *Id.*

4.5 In the box below the above question, Mr. Stafford-Switzer entered the following information:

July 1998	Neg. Driving 1	Yakima	Washington.
May 2002	Possession of Ritalin	Yakima	Washington.
March 2005	Drive on Susp (sic)	White Pass	Washington.

*Id.*

He did not enter dispositions for the offenses as requested. *Id.*

4.6 The application form also includes a paragraph headed OATH OF APPLICANT – PUBLIC CARD ROOM EMPLOYEE, which provides in pertinent part that:

I declare under penalty of perjury, under the laws of the State of Washington, that all information provided on this application is true and complete to the best of my knowledge. I understand that untruthful, misleading, or incomplete answers through misrepresentation, concealment, inadvertence, or mistake are cause for revocation of any gambling license(s) currently held and will be reported to my employer.

*Id.*

4.7 Mr. Stafford-Switzer signed the oath on May 15, 2011. *Id.*

4.8 On May 9, 2012, Mr. Stafford-Switzer submitted a license renewal application on line. Exhibit 3. The online renewal process includes three questions about criminal history. Agent Sullivan testimony. The questions provide links to the Washington Administrative Code and offer the applicant the option of indicating that there is nothing new to report, there are new offenses to report, and/or that there has been a new arrest in the past year. Mr. Stafford-Switzer did not provide a criminal history or report his arrest for Driving While Suspended in April 2012. *Id.*; Exhibit 3.

4.9 On May 16, 2012, Agent Sullivan was assigned Mr. Stafford-Switzer's file to investigate whether he continued to qualify for a license. Agent Sullivan testimony. As part of her investigation, she reviewed Mr. Stafford-Switzer's application for a new license in 2011 and his application for renewal in 2012. As part of the annual renewal process, the Commission performs an annual criminal history check by running the applicant's name through the Washington Judicial Information System. Exhibit 3.

4.10 The Judicial Information System (JIS) is the computerized database for court records in Washington State. Agent Sullivan testimony.

4.11 Agent Sullivan found that Mr. Stafford-Switzer had four criminal convictions, five committed findings, and one pending criminal charge. He had financial obligations owing to various courts totaling \$4,290.50. She also noted six failures to appear (FTA) entries. The licensee's offenses spanned the period 1998 to 2012. The 2004 case had an outstanding balance of \$350. *Id.*

4.12 Courts enter failure to appear (FTA) or failure to remit (FTR) interchangeably to indicate that an offender has failed to pay a court imposed financial obligation. *Id.* FTA is also used to indicate that an offender did not appear in court when required to do so. See Exhibit 14, page 2.

4.13 On March 22, 2012, Special Agent Sullivan sent a letter to Mr. Stafford-Switzer and his employer, RC'S in Sunnyside, noting her findings and that she would be recommending that Mr. Stafford-Switzer's gambling license be revoked. Exhibit 7. Ms. Sullivan did not receive any response from Mr. Stafford-Switzer or his employer. Agent Sullivan testimony.

4.14 Based on her findings, Special Agent Sullivan contacted the courts at issue, requesting certified copies of court dockets and other information pertaining to Mr. Stafford-Switzer's, court ordered financial obligations, and payment history. *Id.*

4.15 On April 29, 2012, in case number 881311, Mr. Stafford-Switzer was charged with the crime of Driving While Suspended. This case was pending at time of hearing in this matter. Exhibit 6. Mr. Stafford-Switzer did not disclose this arrest to the Commission. Agent Sullivan testimony.

4.16 On February 3, 2012, in case number 2Z0009814, Mr. Stafford-Switzer was charged with the traffic offense of No Valid Operator's License. A committed finding was entered. Exhibit 6. Mr. Stafford-Switzer did not disclose this offense on his renewal application. Agent Sullivan testimony.

4.17 On March 4, 2011, in case number 1Z0006338, Mr. Stafford-Switzer was charged with the traffic infractions of speeding and No Valid Operating License. On March 11, 2011, he was found to have committed a lesser offense, No Valid Operator's License, with Valid ID. Exhibit 8. On April 26, 2011, the court imposed fines and fees totaling \$602. *Id.* On June 7, 2011, no payments had been made and the case was referred to collections. *Id.*

4.18 On February 1, 2008, in case number IO5561197, Mr. Stafford-Switzer was charged in Lewis County District Court with the traffic infraction of negligent driving. Mr. Stafford-Switzer requested a hearing, which was scheduled for April 8, 2008. On April 8, 2008, he failed to appear for the hearing, a default committed finding was entered and a \$602 fine was imposed. Exhibit 12. No payments have been made towards the financial obligation, which was referred for collection action on May 12, 2008. Exhibits 12 and 13.

4.19 In companion case number C00589177, Mr. Stafford-Switzer was charged with the criminal offense of Driving While Suspended. Exhibit 14. He was arraigned on February 4, 2008, entered a not guilty plea and requested a trial. A hearing was set for March 13, 2008, at which time Mr. Stafford-Switzer failed to appear resulting in an arrest warrant being issued. *Id.*

4.20 On September 10, 2010, the warrant was served. Mr. Stafford-Switzer posted an appearance bond and received a new court date. On October 13, 2010, he entered a plea of guilty. The Court imposed \$965 in fines and fees, exonerated bail, and set up a time payment agreement. *Id.*

4.21 Mr. Stafford-Switzer made \$50 payments in November and December 2010. No payments were made in January or February 2011, which resulted in the time pay agreement being revoked on March 1, 2011, and the case being assigned to collections on April 1, 2011. *Id.* There is an outstanding balance owing of \$865.

4.22 On April 9, 2007, in case number G0003361, Mr. Stafford-Switzer was charged in Yakima Municipal Court with the infractions of Failure to Yield and Operating a Motor Vehicle Without Insurance. Mr. Stafford-Switzer requested a hearing for which he failed to appear. On May 3, 2007, the court entered committed findings and imposed fines totaling \$743. Exhibit 16

4.23 Mr. Stafford-Switzer did not make any payments toward that obligation. Exhibit 17 On June 25, 2007, the obligation was assigned to collections. Exhibit 16.

4.24 Also on February 9, 2007, Mr. Stafford-Switzer was charged with the crime of Hit and Run Unattended and Driving While License Suspended, in case number F00073492. On June 22, 2007, He was found guilty of Hit and Run. Exhibit 18. The court imposed fines and fees totaling \$381, and \$500 restitution. Mr. Stafford-Switzer was allowed a time payment agreement, which was revoked on September 5, 2007. On November 1, 2007, the case was referred for collections with a balance owing of \$881. *Id.*

4.25 On December 28, 2004, Mr. Stafford-Switzer was charged in Yakima District Court case F00061280 with two criminal counts of Possession of a Pitbull Dog. Exhibit 20. On July 6, 2005, Mr. Stafford-Switzer entered a guilty plea to one count, with count 2 being dismissed. *Id.* The court imposed a total fine of \$450 and placed the case on a time payment agreement. Mr. Stafford-Switzer made \$50 payments in July and August 2005. *Id.* On March 11, 2008, the court assigned the outstanding \$350 balance to collections. *Id.*

4.26 On July 5, 1998, Mr. Stafford-Switzer was charged with Negligent Driving in the First Degree, a criminal offense, in Yakima County District Court case number 235158. Exhibit 6. A guilty finding was subsequently entered. *Id.*

## 5. CONCLUSIONS OF LAW:

### *Jurisdiction*

5.1 Office of Administrative Hearings has jurisdiction over the person and subject matter herein pursuant to RCW 9.46.140, Chapter 34.05 RCW, and Title 230.

## *Burden Of Proof*

5.2 Licensees bear the burden of establishing their qualifications by clear and convincing evidence. RCW 9.46.153(1). Each applicant and holder of a license issued pursuant to Chapter 9.46 RCW is subject to continuous scrutiny regarding his/her general character, integrity, and ability to engage in or participate in, or associate with, gambling or related activities impacting this state. RCW 9.46.153.  
*Legislative Intent*

5.3 The legislative intent expressed in RCW 9.46.010 provides 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 by strict regulation and control." The statute further provides: "All factors incident to the activities authorized in this chapter shall be closely controlled, and the provisions of this chapter shall be liberally construed to achieve such end." In short, those persons who wish to work in this highly regulated industry are held to the very highest character and integrity standards.

## *License Suspension and Revocation*

5.4 RCW 9.46.075(1) and (8) and WAC 230-03-085(1), (3), and (8), provide that the Commission may revoke a license for any reason which it finds is in the public interest, including where the licensee has violated or failed or refused to comply with the provisions, requirements, conditions, limitations, or duties imposed under Chapter 9.46 RCW or any rules adopted by the Commission under law. Likewise, WAC 230-04-400(1) and (11) provide that the Commission may revoke a license for any action which violates 9.46 RCW. The Commission may, therefore, revoke the class III certification of any individual who fails to prove by clear and convincing evidence that he or she meets the character requirements for a gambling license. RCW 9.46.075(8).

5.5 WAC 230-03-085(3), provides that the Commission may suspend a gambling license when the license holder has demonstrated willful disregard of federal, state or local laws, administrative rules, and the lawful orders of administrative bodies and courts with jurisdiction to enforce such laws and rules.

5.6 WAC 230-03-085(8), provides that the Commission may suspend a gambling license when the license holder poses a threat to the effective regulation of gaming or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gaming activities, as demonstrated through the person's prior activities, criminal record, reputation, habits, or associations.

5.7 RCW 9.46.075(8) and RCW 9.46.153(1) place the burden on the licensee to affirmatively establish by clear and convincing evidence that he is qualified to hold

a gambling license in accordance with the laws and regulations governing gambling in the State of Washington.

### *Analysis*

5.8 Here, Mr. Stafford-Switzer has exhibited a pattern of committing criminal and traffic offenses. He has committed Driving while License Suspended and No Valid Operator's License offenses after prior arrest or citation for the same offenses.

5.9 Mr. Stafford-Switzer has ignored court ordered financial obligations. He has also failed to appear for a court hearing, which resulted in the court issuing an arrest warrant, which required that Mr. Stafford-Switzer post bail to be released from custody and to ensure his subsequent court appearance. His actions have resulted in an outstanding debt of \$4,290.50, some of which has been in collections since 2004. He entered into time payment agreements in some cases, only to have courts revoke the agreements when he did not make payments as promised.

5.10 Mr. Stafford-Switzer has also failed to fully disclose information that he is required to disclose to the Commission as part of the licensing process. The application process requires disclosure of forfeited bail or fines over \$25 (including traffic fines), arrests, criminal charges, and/or convictions. Here, Mr. Stafford-Switzer knowing failed to disclose a criminal conviction. For those that he did disclose, he did not provide the requested detail. Nor did he disclose 5 traffic infractions that resulted in committed findings with fines. He also failed to disclose a criminal charge that was pending when he applied for license renewal.

5.11 During the hearing, Mr. Stafford-Switzer indicated that he would violate driver licensing laws, knowing that to do so would be illegal, if necessary to work and care for his family.

5.12 Mr. Stafford-Switzer has not affirmatively established by clear and convincing evidence that he is qualified to hold a gambling certification in accordance with the laws and regulations governing gambling in the State of Washington. RCW 9.46.075.

5.13 Mr. Stafford-Switzer's actions reflect a willful disregard for the law and court orders. His pattern of behavior poses a present threat to the effective regulation of gaming and presents a threat to the public in his position as a gambling licensee; it is in the public interest that his gambling license be revoked. The Commission therefore has the authority to revoke Mr. Stafford-Switzer's Public Card Room license, and has delegated the initial decision regarding suspension or revocation to the Office of Administrative Hearings through the provisions of RCW 9.46.140.

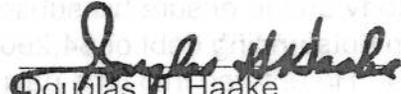
5.14 Accordingly, pursuant to the foregoing Findings of Fact and Conclusions of Law, Mr. Stafford-Switzer's Public Card Room license shall be revoked.

6. **ORDER:**

IT IS HEREBY ORDERED,

Pursuant to law and public interest, Mr. Stafford-Switzer's Public Card Room license, is hereby revoked.

SERVED on the date of mailing.

  
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Douglas H. Haake  
Administrative Law Judge  
Office of Administrative Hearings

**NOTICE TO THE PARTIES OF APPEAL RIGHTS**

You may file an appeal of this order within twenty three days from the day OAH mails this initial order to you. WAC 230-17-090(2); *see also* WAC 230 -17 -030(2), WAC 230 -17 -035(2) [Service by first class mail is complete three days after mailing.]. An appeal from an initial order is known as a "petition for review". Your petition for review should (a) identify the parts of the initial order you disagree with and (b) refer to the evidence in the record that supports your position. If you decide to petition for review, you must serve copies of your petition on all parties or their representatives at the same time you file it with the Gambling Commission. If the Commission does not receive a petition for review within 23 days, the Commission will automatically make this order its final order.

Any party may file a written response to a petition for review, known as a reply. If you wish to file a reply, it must be filed with the Commission within thirty days of the date you are served with the petition. You must serve copies of the reply on all parties or their representatives at the same time you file your reply.

Any party may file a cross appeal. Cross appeals must be filed with the commission within ten days of the date when the petition for review is filed with the Commission. WAC 230 -17 -090(5). If you wish to make a cross appeal, you must serve copies of the cross appeal upon all other parties or their representatives at the same time you file your cross appeal.

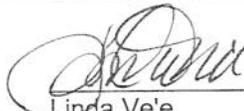
If a party timely files a petition for review, then at least a majority of the Commission members shall review the petition within 120 days and render a final order.

**Certificate of Service – OAH Docket No. 2012-GMB-0045**

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

Address: <b>Michael D. Stafford-Switzer</b> 103 North 56 <sup>th</sup> Avenue Yakima WA 98908	<input checked="" type="checkbox"/> First Class US Mail, postage prepaid <input type="checkbox"/> Certified mail, return receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> 1st Class, postage prepaid Certified mail, return receipt
Address: <b>Stephanie U. Happold</b> Assistant Attorney General Office of the Attorney General PO Box 40100 Olympia WA 98504-0100	<input checked="" type="checkbox"/> First Class US Mail, postage prepaid <input type="checkbox"/> Certified mail, return receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> 1st Class, postage prepaid Certified mail, return receipt
Address: <b>Washington State Gambling Commission</b> ATTN: Legal Department PO Box 42400 Olympia WA 98504	<input checked="" type="checkbox"/> First Class US Mail, postage prepaid <input type="checkbox"/> Certified mail, return receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> 1st Class, postage prepaid Certified mail, return receipt
Address:	
Address:	
Address:	

Date: October 11, 2012

  
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 Linda Ve'e  
 Office of Administrative Hearings