

SEP 25 2017

GOVERNMENT COMPLIANCE
& ENFORCEMENTWASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS

In the matter of:

Irene R. Ang,
License No. 68-26464

Licensee.

Docket No. 04-2017-GMB-00020

INITIAL ORDERAgency: Washington State Gambling Commission
Program: Licensing
Agency No. 2016-01736**1. ISSUES** Based on the Gambling Commission's 'Notice of Administrative Charges', dated February 13, 2017:

- 1.1. Whether Irene Ang's Public Card Room Employee License No. 68-26464, should be revoked in accordance with RCW 9.46.075(1),(8) and/or WAC 230-03-085(1),(3), and (8)?
- 1.2. Whether Irene Ang cannot prove by 'clear and convincing evidence' she is qualified for licensure, contrary to RCW 9.46.153(1)?

2. ORDER SUMMARY

- 2.1. **Affirmed.** Irene Ang's Public Card Room Employee License No. 68-26464, should be revoked in accordance with RCW 9.46.075(1),(8) and/or WAC 230-03-085(1),(3), and (8).
- 2.2. Irene Ang has failed to prove by 'clear and convincing evidence' she is qualified for licensure, consistent with RCW 9.46.153(1).

3. HEARING

- 3.1. Hearing Date: Wednesday, August 23, 2017
- 3.2. Appellant: Irene R. Ang ('Licensee')
 - 3.2.1. Representative: Ms. Ang represented herself.
 - 3.2.2. Witnesses: Ms. Ang did not call any witnesses.
- 3.3. Agency: Washington State Gambling Commission
 - 3.3.1. Representative: Gregory J. Rosen, Senior Counsel
 - 3.3.2. Witnesses: Richard Schulte, Gambling Commission
Regulatory Unit Special Agent
James Olson, Chips Casino Floor Manager
- 3.4. Exhibits: Gambling Commission's Exhibits 1 through 5 were admitted.
The Appellant did not present any exhibits.

4. FINDINGS OF FACT

The undersigned administrative law judge finds the following facts by a 'preponderance of the evidence':

Jurisdiction

4.1. On February 13, 2017, the Washington State Gambling Commission ('Gambling Commission') issued to Irene Ang ('Appellant') a 'Notice of Administrative Charges'.

4.2. On February 23, 2017, Ms. Ang appealed the 'Notice of Administrative Charges'.

October 3, 2016 Theft of Casino Chips

4.3. Gambling Commission Regulatory Unit Special Agent Richard Schulte investigated the Appellant's alleged theft of casino chips. *Testimony of Richard Schulte (hereinafter 'Testimony of Schulte') and Exhibit (Ex.) 1.*

4.4. At the Gambling Commission's request, the Chips Casino provided video camera footage (*Exhibit 5*) regarding the Appellant's theft allegation. *Testimony of Schulte and Ex. 1.*

4.5. The Appellant is a licensed gaming dealer at Chips Casino, located at 8200 Tacoma Mall Boulevard, Lakewood, Washington. *Testimony of Schulte and Ex. 1.*

4.6. On the evening of October 3, 2016, the Appellant was off-duty, playing baccarat at Chips Casino. *Testimony of Schulte and Ex. 1.*

4.7. At around 10:50 p.m., Phoung Nguyen, the player to the immediate left of the Appellant at the baccarat table, got up and left the table to play at another table. Nguyen left \$130.00 in casino chips to keep her place at the table. During this time, the Appellant continued to play baccarat. *Testimony of Schulte and Exs. 1, 4 & 5.*

4.8. At around 11:06 p.m., the Appellant lost her hand at baccarat, leaving her with no remaining casino chips to play. *Testimony of Schulte and Exs. 1, 4 & 5.*

4.9. After losing her hand, the Appellant looked around and seeing Nguyen's casino chips unattended, the Appellant took Nguyen's casino chips and began placing baccarat table bets with them for herself. *Testimony of Schulte and Exs. 1, 4 & 5.*

4.10. The Appellant took Nguyen's casino chips without her knowledge or consent. *Testimony of Schulte and Exs. 1, 4 & 5.*

4.11. At around 11:19 p.m., Nguyen returned to the baccarat table and discovered her casino chips had been taken. *Testimony of Schulte and Exs. 1, 4 & 5.*

- 4.12. Nguyen learned the Appellant had taken her casino chips. She confronted the Appellant about taking her chips without her consent. *Testimony of Schulte and Exs. 1, 4 & 5.*
- 4.13. The Appellant admitted to Nguyen about taking her casino chips but said she was “good for it.” *Testimony of Schulte.*
- 4.14. Nguyen contacted the Chips Casino Floor Manager, James Olson, about the Appellant taking her casino chips without her consent. *Testimony of James Olson (hereinafter ‘Testimony of Olson’) and Exs. 2 & 3.*
- 4.15. Olson confronted the Appellant about taking Nguyen’s casino chips. The Appellant admitted to taking Nguyen’s casino chips, saying “I know I got it, don’t worry about it. I’ll pay her back.” *Testimony of Olson and Exs. 2 & 3.*
- 4.16. Olson requested the Appellant return Nguyen’s casino chips. *Testimony of Olson and Exs. 2 & 3.*
- 4.17. The Appellant purchased more casino chips, but gambled them away. *Testimony of Schulte, Exs. 1, 4, & 5, Testimony of Olson and Exs. 2 & 3.*
- 4.18. Olson contacted the Appellant a second time regarding the taking of Nguyen’s casino chips. At that point, the Appellant took out a cash advance on a credit card from a nearby ATM. *Testimony of Schulte, Exs. 1, 4, & 5, Testimony of Olson and Exs. 2 & 3.*
- 4.19. At around 11:26 p.m., the Appellant repaid Nguyen with \$130.00 in casino chips. *Testimony of Schulte, Exs. 1, 4, & 5, Testimony of Olson and Exs. 2 & 3.*
- 4.20. From originally being confronted by Nguyen regarding the theft of her casino chips, the Appellant took almost twenty minutes to repay the \$130.00 in casino chips. *Testimony of Schulte, Exs. 1, 4, & 5.*
- 4.21. Nguyen acknowledged she had previously loaned casino chips to the Appellant on previous occasions, but not this time. *Testimony of Olson and Ex. 2.*
- 4.22. The Appellant’s act of taking \$130.00 in casino chips of another player, without that player’s knowledge or consent, constitutes ‘Theft in the Third (3rd) Degree, a Gross Misdemeanor. *Testimony of Schulte.*
- 4.23. The City of Lakewood declined prosecuting the Appellant for the theft since she had repaid Nguyen for the theft. *Testimony of Schulte.*
- 4.24. At the hearing, the Appellant admitted it was “my mistake” to take Nguyen’s casino chips without her consent. *Testimony of Irene Ang (hereinafter ‘Testimony of Ang’).*

[Continued]

5. CONCLUSIONS OF LAW

Based upon the facts above, the undersigned administrative law judge makes the following conclusions:

Jurisdiction

5.1. The Office of Administrative Hearings has jurisdiction over the persons and subject matter of this case under RCW (Revised Code of Washington) 9.46.140(2)&(4), and WAC (Washington Administrative Code) 230-17-025.

Revocation of Card Room Gambling License

5.2. RCW 9.46.075 is the Commission's legislative grant of authority to deny, suspend, or revoke gambling licenses or permits:

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:

(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, she or it is qualified in accordance with the provisions of this chapter;

RCW 9.46.075(1) & (8).

5.3. Further, the Commission is also authorized by its administrative rules, specifically, WAC 230-03-085 to deny, suspend, or revoke an application, license, or permit:

We [referring to the Commission] 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:

(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) 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;

WAC 230-03-085(1),(3) & (8)

5.4. In the present case, the Gambling Commission has proven, by a 'preponderance of the evidence', the Appellant took the casino chips of another player (Nguyen) without her knowledge or consent. Such action by the Appellant constitutes 'theft'. At the time of the incident, the Appellant did not deny she took Nguyen's casino chips without her consent.

5.5. At the hearing, the Appellant contends she was playing baccarat with several co-workers, who routinely share casino chips. The undersigned administrative law judge is not convinced based on the review of the video footage of the incident (*Exhibit 5*). During the incident, no player occupied the seat to the immediate left of the Appellant, after Nguyen vacated the seat to play at another table. However, Nguyen's casino chips remained. Seeing no one playing the chips in front of the vacated seat, the Appellant took the casino chips and placed bets for her own benefit without the knowledge and consent of Nguyen.

5.6. Based on the events of October 3, 2016, the Gambling Commission has proven by a 'preponderance of the evidence' the Appellant committed Theft in the Third Degree, by taking the casino chips of another player, without that player's knowledge or consent. Such actions by the Appellant is a 'willful disregard for complying with ordinances, statues, administrative rules, or court orders, whether at the local, state, or federal level', consistent with WAC 230-03-085(3).

5.7. Further, the Gambling Commission has proven by a 'preponderance of the evidence' the Appellant's actions on October 3, 2016, '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. WAC 230-03-085(8).

5.8. Therefore, the Gambling Commission's decision to revoke the Appellant, Irene Ang's Public Card Room Gambling License, Number 68-26464, is **affirmed**.

Failure to Establish 'Clear and Convincing Evidence' of Qualified Licensure

5.9. RCW 9.46.153(1) requires applicants to prove their eligibility for a license:

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[.]” **Emphasis Added.**

5.10. “Clear and convincing evidence,” as that term is used in RCW 9.46.153(1), is a higher burden of proof than “preponderance of the evidence.” See *Hardee v. Department of Social and Health Services*, 172 Wn.2d 1, 6-18, 256 P.3d 339 (2011).

5.11. In the present case, based on the revocation of the Appellant’s Public Card Room Gambling License being revoke, Irene Ang has failed to prove, by ‘clear and convincing evidence’ that she is qualified for licensure under Chapter 9.46 RCW. As a result, the Gambling Commission’s decision to revoke Ms. Ang’s gambling license is **affirmed**.

6. INITIAL ORDER

IT IS HEREBY ORDERED THAT:

6.1. **Affirmed.** Irene Ang’s Public Card Room Employee License No. 68-26464 should be revoked in accordance with RCW 9.46.075(1),(8) and/or WAC 230-03-085(1),(3), and (8).

6.2. **Affirmed.** Irene Ang has failed to prove by ‘clear and convincing evidence’ she is qualified for licensure, consistent with RCW 9.46.153(1).

Issued from Tacoma, Washington on the date of mailing.



TJ Martin
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. 04-2017-GMB-00020

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

<p>Irene R. Ang 4538 Puget Sound Ave., #B Tacoma, WA 98409 <i>Appellant</i></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>Gregory J. Rosen MS: 40100 PO Box 40100 1125 Washington St Se Olympia, WA 98504 <i>Agency Representative</i></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: Friday, September 22, 2017

OFFICE OF ADMINISTRATIVE HEARINGS



Ricci Frisk
Legal Assistant