

WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS

ATTORNEY GENERAL
OF WASHINGTON

MAY 24 2018

GOVERNMENT COMPLIANCE
& ENFORCEMENT

In the matter of:

Docket No. 10-2017-GMB-00031

Angela M. Pagnossin,

INITIAL ORDER

Appellant.

Agency: Washington State Gambling Commission
Program: Gambling Commission
Agency No. 2017-01126

1. ISSUES- Based on the Washington State Gambling Commission's 'Denial of Public Card Room Employee License Application', dated September 14, 2017:

1.1. Whether the Appellant, Angela M. Pagnossin, can demonstrate by 'clear and convincing evidence' she is qualified to receive a new gambling license, as required by RCW 9.46.153(1) and RW 9.46.075(8)?

1.2. Whether the Appellant, Angela M. Pagnossin's application for a public card room employee license should be denied under RCW 9.46.075(1),(4),(7),(8) and/or WAC 230-03-085(1),(8)(a),(b)?

2. ORDER SUMMARY

2.1. **Affirmed.** The Appellant, Angela M. Pagnossin, cannot demonstrate by 'clear and convincing evidence' she is qualified to receive a new gambling license, as required by RCW 9.46.153(1) and RW 9.46.075(8).

2.2. **Affirmed.** The Appellant, Angela M. Pagnossin's application for a public card room employee license should be denied under RCW 9.46.075(1),(4),(7),(8) and/or WAC 230-03-085(1),(8)(a),(b).

3. HEARING

3.1. Hearing Date: March 20, 2018

3.2. Administrative Law Judge: T.J. Martin

3.3. Appellant: Angela M. Pagnossin ('Appellant')

3.3.1. Representative: The Appellant represented herself.

3.3.2. Witnesses: Vern Westerdahl, Managing Partner,
Roxberry Lanes & Casino

[Continued]

- 3.4. Agency: Washington State Gambling Commission
(‘Gambling Commission Staff’)
- 3.4.1. Representative: Gregory J. Rosen, AAG
- 3.4.2. Witnesses: Danny Lisa, Gambling Commission Special Agent
Donna Khanhasa, Gambling Commission
Special Agent
- 3.5. Exhibits: Gambling Commission Staff’s Exhibits 1-18 were
admitted, without objection.

The Appellant’s Exhibits A and B were admitted.

4. FINDINGS OF FACT

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

Jurisdiction

- 4.1. On September 14, 2017, the Washington State Gambling Commission (‘Gambling Commission Staff’) issued a ‘Denial of Public Card Room Employee License Application’ regarding Angela M. Pagnossin (‘Appellant’).
- 4.2. On September 29, 2017, the Appellant appealed the denial.

Appellant’s Previous Gambling License Revocations

Theft of Casino Chips

- 4.3. From July 6, 2004 to February 23, 2005, Gambling Commission Special Agent Danny Lisa investigated an alleged theft of casino chips by the Appellant, an employee of Chips Casio in Tukwila, Washington. *Testimony of Danny Lisa (hereinafter ‘Testimony of Lisa’) and Ex. 2.*
- 4.4. On February 14, 2005, the Appellant agreed to surrender her Public Card Room Employee license as a part of an ‘Agreed Order’, to avoid any further enforcement action being taken by the Gambling Commission. *Exs. 3 & 4.*

Unlawful Issuance of Bank Checks

- 4.5. On September 1, 2005, the Appellant filed a ‘Public Card Room Employee License Application’ to work for Rascals, Inc. *Ex. 5.*
- 4.6. On August 29, 2006, the Gambling Commission issued a ‘Public Card Room License’ to the Appellant to work Roxy’s Bar & Grill in Seattle, Washington. *Ex. 6.*

- 4.7. From February 23, 2009 to November 19, 2010, Gambling Special Agent Dawn Stewart investigated the Appellant writing \$13,600 worth of checks in 2008 which were returned since there were 'insufficient funds' to cover the checks. Based on the investigation, the Gambling Commission sought to revoke the Appellant's Public Card Room License. *Ex. 7.*
- 4.8. On December 22, 2009, Office of Administrative Hearings Administrative Law Judge James D. Stanford affirmed the Gambling Commission's revocation of the Appellant's Public Card Room License. *Ex. 8.*
- 4.9. On March 11, 2010, the Washington State Gambling Commission Board affirmed the revocation of the Appellant's Public Card Room License. *Ex. 9.*
- 4.10. On May 24, 2010, the King County Prosecutor's Office filed three, gross misdemeanor counts of 'Unlawful Issuance of Checks or Drafts' against the Appellant. (The charges were amended to include more specificity to the crimes). *Exs. 10, 11, and 12.*
- 4.11. On August 25, 2010, the Appellant plead guilty to three criminal charges. She was sentenced to 20 days on work crew (with credit for one day served), a \$500 fine, and to pay restitution for the insufficient checks. *Exs. 13 & 14.*
- 4.12. Currently, the Appellant still owes \$12,400 of the restitution ordered by King County Superior Court on August 25, 2010. *Testimony of Donna Khanhasa (hereinafter 'Testimony of Khanhasa') and Ex. 7; page 10.*

Current License Application and Failure to Disclose Prior Convictions

- 4.13. On April 3, 2017, the Appellant applied for a Public Card Room Employee License with the Gambling Commission. *Ex. 15.*
- 4.14. On August 16, 2017, Gambling Commission Special Agent Donna Khanhasa began investigating the Appellant's application for a Public Card Room Employee license to work at Roxy's Bar and Grill, located in Seattle, Washington. *Testimony of Khanhasa and Exhibit (Ex.) 1.*
- 4.15. The Appellant's criminal background check revealed: Possession of Stolen Property and Criminal Impersonation (1988); Theft in the Second Degree (1990) and Issuance of Checks greater than \$250.00- three counts (2008). The three, earlier criminal violations, in 1989 and 1990, were not disclosed by the Appellant on her Public Card Room Employee license application. *Testimony of Khanhasa and Exs. 16-18.*
- 4.16. At the hearing, the Appellant did not deny the Gambling Commission Staff's allegations. However, since the second revocation of her gambling license, in 2010, the Appellant has raised three children, all of which are currently or have graduated from college, as well as purchased and maintained a home. *Testimony of Angela M. Pagnossin (hereinafter 'Testimony of Pagnossin').*

- 4.17. Regarding the theft of casino chips, the Appellant admits she, as a dealer, took casino chips amounting to \$60.00 for purposes of “keeping the game going” which she asserted was a common practice at the casino. Dealers typically repaid the taken chips by means of paying back the casino through dealer tips. *Testimony of Pagnossin.*
- 4.18. Regarding the issuance of bank checks in 2008, the Appellant acknowledged she wrote three months of mortgage payments when she knowingly did not have sufficient funds to cover such checks. She asserted she did so since she didn’t want to forfeit her down payment on her family’s home by being delinquent in making payments. She denied any attempt to deceive or defraud anyone by her actions. *Testimony of Pagnossin.*
- 4.19. Regarding the failure to disclose criminal convictions in 1989 and 1990 for Possession of Stolen Property, Criminal Impersonation, and Theft in the Second Degree, a felony, the Appellant acknowledged not disclosing the crimes on her 2017 gaming license application. However, she contends those crimes were previously disclosed on her prior gambling license applications and believed the Gambling Commission was already aware of them. She believed she only had to list any recent crimes which may have occurred since the last time she had applied for a license. *Testimony of Pagnossin.*
- 4.20. Since 2008, the Appellant asserted she has had no law violations. In addition, she has been out of the gaming industry for the past decade. *Testimony of Pagnossion.*
- 4.21. Vern Westerdahl, Managing Partner at Roxbury Lanes & Casino, Seattle, Washington, asserted he would still like to employ at the Appellant, despite her past. *Testimony of Vern Westerdahl (hereinafter ‘Testimony of Westerdahl’) and Exhibits A & B and Ex. 15; pg. 3.*

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 (OAH) has jurisdiction over the persons and subject matter of this case under Revised Code of Washington (RCW) 9.46.140(2)&(4) and chapters 34.05 and 34.12 RCW.

[Continued]

Burden of Proof

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

It shall be the affirmative responsibility of each...licensee to establish by **clear and convincing evidence** the necessary qualifications for licensure of each person required to be qualified under this chapter,...[.]” **Emphasis Added.**

5.3. “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).

Appellant’s Gambling License Application and Public Interest

5.4. RCW 9.46.010 establishes:

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.

5.5. RCW 9.46.040 authorizes the Washington State Gambling Commission to enforce the rules and regulations relating to gambling activities in the State of Washington.

5.6. RCW 9.46.075 authorizes the Gambling Commission to deny, suspend, or revoke a gambling license and/or an application for a gambling license. Specifically, the statute provides, in pertinent part:

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;

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

RCW 9.46.075.

5.7. Further, WAC 230-03-085 authorizes the Gambling Commission to deny, suspend, or revoke a gambling license and/or an application for a gambling license. Specifically, the regulation provides, in pertinent part:

(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;

WAC 230-03-085.

5.8. In the present case, the Appellant does not dispute: (1) In 2005, she voluntarily surrendered her public card room gambling license for theft of casino chips, rather than face further enforcement action by the Gambling Commission; (2) In 2010, she had her public card room gambling license revoked for unlawful issuance of bank checks, which she later plead guilty to in criminal court; and (3) In 2017, she failed to disclose on her public card room license application she had been convicted for Possession of Stolen Property, Criminal Impersonation, and Theft in the Second Degree (a felony), dating back to 1989 and 1990.

5.9. While each of these incidents may or may not be sufficient to warrant a denial of the Appellant's public card room gambling license application, the 'totality of those events and crimes' does call into question whether public interest would be protected by the Appellant receiving a gambling license for the third time.

5.10. At the hearing, the Gambling Commission Staff established the Appellant failed to disclose her prior convictions for Possession of Stolen Property, Criminal Impersonation and Theft in the Second Degree, in violation of RCW 9.46.075(7) and WAC 230-03-085.

- 5.11. Further, the Gambling Commission Staff also established the Appellant's prior convictions of Possession of Stolen Property, Theft in the Second Degree, and theft of casino chips and issuance of bank checks all involve a pattern to defraud others, constituting crimes of 'moral turpitude' in violation of RCW 9.46.075(4).
- 5.12. At the hearing, the Appellant acknowledged her past mistakes, including her reasoning for the insufficient funds incident in 20008. However, the Appellant has failed to refute the Gambling Commission Staff's case. More importantly, the Appellant has failed to meet her burden by proving through 'clear and convincing evidence' she is qualified for licensure by the Washington State Gambling Commission, consistent with RCW 9.46.153(1) and RCW 9.46.075(8). Therefore, the Gambling Commission's decision to deny the Appellant's public card room employee gambling license is **affirmed**.
- 5.13. For the above-cited reasons, this court finds Angela M. Pagnossin's application for a public card room employee license should be denied under RCW 9.46.075(1),(4),(7),(8) and/or WAC 230-03-085(1),(8)(a),(b). The Gambling Commission's 'Denial of Public Card Room Employee License Application', regarding Angela M. Pagnossin, dated September 14, 2017 is **affirmed**.

6. INITIAL ORDER

IT IS HEREBY ORDERED THAT:

- 6.1. The Washington State Gambling Commission's 'Denial of Public Card Room Employee License Application' for Angela M. Pagnossin is **affirmed**.
- 6.2. **Affirmed**. The Appellant, Angela M. Pagnossin, cannot demonstrate by 'clear and convincing evidence' that she is qualified to receive a new gambling license, as required by RCW 9.46.153(1) and RW 9.46.075(8).
- 6.3. **Affirmed**. The Appellant, Angela M. Pagnossin's application for a public card room employee license should be denied under RCW 9.46.075(1),(4),(7),(8) and/or WAC 230-03-085(1),(8)(a),(b).

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. 10-2017-GMB-00031

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

<p>Angela M. Pagnossin 15807 5th Pl. South Burien, WA 98148 <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, AAG Office of The Attorney General 1125 Washington St SE MS: 40100 PO Box 40100 Olympia, WA 98504-0100 <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>
<p>Haylee Mills, Staff Attorney Gambling Commission MS: 42400 PO Box 42400 Olympia, WA 98504-2400 <i>Agency Contact</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: Wednesday, May 23, 2018

OFFICE OF ADMINISTRATIVE HEARINGS



Ricci Frisk
Legal Administrative Manager

