

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

Docket No. 03-2021-GMB-00171

Samnang Chuab,

INITIAL ORDER

Appellant.

Agency: Gambling Commission
Program: Washington State Gambling Commission
Agency No. 2021-00050

Language Access Notice

English

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Khmer

នេះគឺជាឯកសារសំខាន់មួយដែលប៉ះពាល់ដល់សិទ្ធិស្របច្បាប់របស់អ្នក។ ឯកសារនេះគឺផ្លាស់ប្តូរតាមពេលវេលា។ ប្រសិនបើអ្នកត្រូវការជំនួយក្នុងការអានឯកសារ សូមទូរស័ព្ទមកយើងខ្ញុំតាមរយៈលេខ (800) 583-8271។ យើងខ្ញុំនឹងផ្តល់អ្នកបកប្រែដោយឥតគិតថ្លៃ។

1. ISSUES

- 1.1. Did Samnang Chuab violate RCW 9.46.221 by engaging in professional gambling as defined by RCW 9.46.0269(1)(a) and (b)?
- 1.2. Did Samnang Chuab violate RCW 9.46.160 by engaging in activity for which a license was required without having the license?
- 1.3. If so, should Samnang Chuab's public card room employee license be revoked?

2. ORDER SUMMARY

- 2.1. Yes, Samnang Chuab violated RCW 9.46.221 by participating in a private card game that met the definition of professional gambling.
- 2.2. Yes, Samnang Chuab violated RCW 9.46.160 by engaging in activity for which a license was required without having the license.
- 2.3. Yes, by committing these violations, Samnang Chuab has not established by clear and convincing evidence that he is qualified to be a public card room employee.

3. HEARING

- 3.1. Hearing Date: July 20, 2021
- 3.2. Administrative Law Judge: Laura Bradley

3.3. Appellant: Samnang Chuab

3.3.1. Witnesses:

3.3.1.1. Samnang Chuab

3.4. Agency: Gambling Commission

3.4.1. Representative: Doug Van de Brake, AAG

3.4.2. Witnesses:

3.4.2.1. Special Agent Christopher Rainey

3.5. Exhibits: Exhibits 1 through 3 were admitted.

3.6. Vannara Lim, court-certified Cambodian/Khmer interpreter provided interpreter services for the hearing.

4. FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

Jurisdiction

4.1. On February 12, 2021, the Gambling Commission served its Notice of Administrative Charges, dated February 10, 2021, on the appellant Samnang Chuab by certified and United States mail.

4.2. Samnang Chuab submitted a request for hearing on March 1, 2021.

Credibility

4.3. The parties' testimony conflicted on material points. In resolving these conflicts, the demeanor and motivation of the witnesses was considered, as well as the logical persuasiveness of the parties' evidence, including testimony. The undersigned finds the Special Agent Rainey's testimony more logically persuasive. In entering this finding, this tribunal need not be persuaded beyond a reasonable doubt as to the true state of affairs, nor must the evidence be deemed clear, cogent, and convincing on whether the violations occurred. It is only necessary to determine what most likely happened.

4.4. Specifically, Samnang Chuab's testimony was inconsistent. When initially asked if he was the individual pictured in Exhibit 2. He answered yes. When asked if a certain picture in Exhibit 2, page 8 showed the grandmother he said he was visiting he answered yes. Later when the undersigned attempted to question him about page 14 of Exhibit 2 and whether he had money in front of him in that photo, Mr. Chuab insisted that he did not have any photographs in the exhibits provided by the Gambling Commission. In addition, the statements Mr. Chuab gave during

the investigative interview were different than the answers he provided during his testimony.

Samnang Chuab

4.5. The Appellant, Samnang Chuab, holds a card room employee license issued by the Commission under license number 68-04858. Exhibit 1, page 1.

4.6. The Commission issued the Appellant's license with an expiration date of October 30, 2021. *Id.*

Chaub's Participation

4.7. On November 4, 2019, the Gambling Commission received an anonymous report of an illegal gambling operation at 3607 East E Street, Apartment 3 in Tacoma, Washington.

4.8. The informant stated that a group of people, many of whom were card room and casino employees, gathered at the apartment and played a card game called Thong.

4.9. The informant provided photographs of individuals playing the game. Exhibit 2, pages 6 through 14. The informant identified Mr. Chuab in each of these photographs. Mr. Chuab agreed that the photographs included pictures of him.

4.10. Special Agent Rainey began conducting surveillance outside of the locations the games were held to note the cars and individuals arriving at the game. Although the informant provided one address initially, Special Agent Rainey was later informed that the game had moved to 7416 Golden Given Road, Apartment 9 in Tacoma, Washington. Special Agent Rainey conducted surveillance on the following dates: March 25, 2020; March 26, 2020; March 31, 2020; April 2, 2020; April 3, 2020; April 16, 2020; June 19, 2020; July 1, 2020; and July 28, 2020.

4.11. During the surveillance, Special Agent Rainey observed and took pictures of a car outside the apartment which was registered to Samnang Chuab. Pictures of the automobile can be found in Exhibit 2, pages 2 and 4.

4.12. Also during the surveillance, Special Agent Rainey took pictures of Mr. Chuab walking from his car to the apartment which the informant identified as the site of the game. Exhibit 2, pages 16 and 18.

Gambling

4.13. The informant described the card game to Special Agent Rainey as a Chinese/Cambodian card game called Thong. He explained that the cards are different from those used in casinos in the United States. Players have to pay a fee using a chip worth \$2, which is placed in Rose Tea tin, to play each hand. If a player does not put a chip in the tin, they do not get dealt a hand. The money in the

tin goes to the host of the game to pay for the use of the apartment and to buy snacks.

- 4.14. Special Agent Rainey interviewed Mr. Chuab about the game. Mr. Chuab explained that players would exchange money for chips when they arrived for the game. The players would place a wager on each hand using chips and the winner would get the chips. Mr. Chuab said he would only keep his initial wager and would put the rest of the chips from that hand into the tin where chips were held to be exchanged for money to buy snacks. At the end of the game, players would exchange the chips they had for money.
- 4.15. Special Agent Rainey also interviewed Mr. Chuab about the game. The information Mr. Chuab gave to Special Agent Rainey differed from the information Mr. Chuab provided in his testimony. I am persuaded that the information Mr. Chuab gave during the investigatory interview is correct on a more probable than not basis. During the investigatory interview, Mr. Chuab was not aware that he was at risk of losing his public card room license and was probably more honest about the terms of the game.

5. CONCLUSIONS OF LAW

Based upon the facts above, I make 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), Washington Administrative Code (WAC) 230-17-025 and Chapters 34.05 and 34.12 RCW.

Authority of the Gambling Commission

- 5.2. RCW 9.46.010 establishes, 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 and by strict regulation and control.

- 5.3. RCW 9.46.040 also authorizes the Gambling Commission to enforce the rules and regulations relating to gambling activities in the State.

Violation of RCW 9.46.221

- 5.4. A person is guilty of professional gambling in the second degree if he engages in or knowingly aids another in professional gambling and acts in concert with fewer than five people. RCW 9.46.221.

5.5. Professional gambling occurs, among other times, when a person pays a fee to participate in a card game. RCW 9.46.02269(1)(b).

5.6. The preponderance of the evidence in this case establishes that Samnang Chuab paid a \$2 fee to play each hand in the game Thong by submitting a chip for each hand dealt. The fees collected were paid to the host of the game. By paying the fee, Mr. Chuab engaged in professional gambling in violation of RCW 9.46.221.

Violation of RCW 9.46.160

5.7. The gambling commission is authorized to issue licenses to organizations and individuals engaged in any type of gambling activity, including but not limited to: social card games, dice games, amusements, and raffles. Chapter 9.46 RCW.

5.8. A person engaging in gambling activity must be licensed unless a specific exception applies.

5.9. "Any person who conducts any activity for which a license is required by this chapter, or by rule of the commission, without the required license issued by the commission shall be guilty of a class B felony." RCW 9.46.160.

5.10. For social card games, a charitable or nonprofit organization is allowed to use its premises for social card games and dice games under certain conditions. Even in those circumstances, no charge or fee can be collected to enter the game. RCW 9.46.0351.

5.11. The exception to licensing does not apply to the games of Thong in which Mr. Chuab engaged because the game was not operated on the premises of a charitable or non-profit organization and because a fee was required to be dealt each hand of the game.

5.12. The preponderance of the evidence establishes the Mr. Chuab violated RCW 9.46.160 by engaging in gambling activity that required a license and he did not possess the appropriate license.

Revocation of Card Room License

5.13. RCW 9.46.153(1) establishes:

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.

5.14. WAC 230-03-085 authorizes the Gambling Commission Staff to revoke a license if such a licensee commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075 or 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 prior activities. WAC 230-03-085(1) and (9)(a).

5.15. The Gambling Commission may deny a license application, revoke or suspend a license of an individual in the following circumstances:

- 1) Violating, failing or refusing to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW...;
- 2) Knowingly causes, aids, abets, or conspires with another to cause, any person to violated any of the laws of this state or the rules of the commission; . . .
- 8) Failing to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this chapter 9.46 RCW,

RCW 9.46.075(1), (2) and (8).

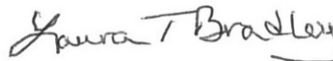
5.16. Samnang Chuab has violated the provisions and requirements of Chapter 9.46 RCW and has aided other in violating the laws of the states and rules of the commission. He has failed to prove by clear and convincing evidence that he is qualified to be licensed as a card room employee.

6. INITIAL ORDER

IT IS HEREBY ORDERED THAT:

- 6.1. The Gambling Commission action is **AFFIRMED**.
- 6.2. Samnang Chuab violated RCW 9.46.221, professional gambling in the second degree, by joining in a card game for which a fee was charged to participate.
- 6.3. Samnang Chuab violated RCW 9.46.160 by engaging in a social card game with others without the required license.
- 6.4. Samnang Chuab has not proven by clear and convincing evidence that he is qualified to hold a license as a card room employee.
- 6.5. The Gambling Commission is authorized to revoke Samnang Chuab's card room employee license.

Issued from Tacoma, Washington on the date of mailing.



Laura Bradley
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.¹ 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.

¹ WAC 230-17-090.

CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 03-2021-GMB-00171

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

Samnag Chuab 6810 E J St Tacoma, WA 98404 <i>Appellant</i>	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail:
Doug Van de Brake, AAG Office of the Attorney General MS:40100 PO Box 40100 Olympia, WA 98504 <i>Agency Representative</i>	<input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> E-mail: Doug.VandeBrake@atg.wa.gov Heather.Wulf@atg.wa.gov GCEEF@atg.wa.gov
Ashlie Laydon Washington State Gambling Commission MS: 42400 PO Box 42400 Olympia, WA 98504 <i>Agency Contact</i>	<input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input checked="" type="checkbox"/> E-mail: ashlie.laydon@wsgc.wa.gov

Date: Friday, July 30, 2021

OFFICE OF ADMINISTRATIVE HEARINGS



Shawntá Williams
 Legal Assistant 2