



STATE OF WASHINGTON
GAMBLING COMMISSION

"Protect the Public by Ensuring that Gambling is Legal and Honest"

February 15, 2022

Benjamin Williams
500 University Parkway Apt. 478
Yakima, WA 98901

721 Ames Rd
Selah, WA 98942

Subject: Final Order in CR 2021-01015

Dear Benjamin Williams,

Administrative Law Judge Dan Gerard issued an Initial Order in CR 2021-01015 (Docket No. 09-2021-GMB-00184) on January 19, 2022, affirming the Gambling Commission's revocation of your gambling license, license no: 68-33724.

A Petition for Review needed to be received by the Gambling Commission within twenty days from the date the Initial Order was issued. No Petition for Review was received; therefore this Initial Order is now a Final Order and your gambling license, license no: 68-33724 is revoked as of February 8, 2022.

If you have any questions concerning this matter, you may contact Adam Teal, Staff Attorney at by phone at (360) 486-3475 or by email at adam.teal@wsgc.wa.gov.

Sincerely,

Ashlie Laydon, Rules Coordinator
Licensing, Regulation, and Enforcement

Enclosures

**WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS**

In the matter of:

Benjamin Williams,

Appellant.

Docket No. 09-2021-GMB-00184

**INITIAL ORDER ON SUMMARY
JUDGMENT MOTION**

Agency: Gambling Commission
Program: Washington State Gambling
Commission

Agency No. 2021-01015

1. ISSUES

- 1.1. Whether Appellant, Benjamin Williams, violated Revised Code of Washington (“RCW”) 9.46.1961, by cheating in the first degree.
- 1.2. Whether Appellant violated RCW 9A.56.050, by committing theft in the third degree.
- 1.3. Whether Appellant’s alleged actions pose such a threat to the effective regulation of gambling to warrant the revocation of his license, pursuant to RCW 9.46.075(1) and Washington Administrative Code (“WAC”) 230-03-085(1) and (9)(a).
- 1.4. Whether Appellant can prove by ‘clear and convincing evidence’, he is qualified for licensure, as required by RCW 9.46.153(1).
- 1.5. Whether the Gambling Commission is authorized to revoke Appellant’s Public Card Room Employee (“CRE”) License, pursuant to RCW 9.46.075(1), RCW 9.46.153(1), and WAC 230-03-085(1) and (9)(a).
- 1.6. If Appellant’s CRE License is revoked, whether an evidentiary, fact-finding hearing is warranted.

2. ORDER SUMMARY

- 2.1. No genuine dispute of material fact exists as to whether Appellant cheated in the first degree, in violation of RCW 9.46.1961. No genuine dispute of material fact exists as to whether Appellant committed theft in the third degree in violation of RCW 9A.56.050. No genuine dispute of material fact exists as to whether Appellant’s actions posed such a threat to the effective regulation of gambling to warrant the revocation of his license, pursuant to RCW 9.46.075(1) and Washington Administrative Code (“WAC”) 230-03-085(1) and (9)(a). The Gambling Commission’s Motion for Summary Judgment is **GRANTED**.

- 2.2. Appellant has not proven by ‘clear and convincing evidence’ he is qualified for licensure, as required by RCW 9.46.153(1).
- 2.3. The Gambling Commission is authorized to revoke Appellant’s CRE License based on RCW 9.46.075(1), RCW 9.46.153(1), and WAC 230-03-085(1) and (9)(a). The Gambling Commission’s revocation of Appellant’s CRE License, is **AFFIRMED**.
- 2.4. Since the revocation of Appellant’s CRE License is **AFFIRMED**, no fact-finding hearing is warranted. Therefore, the evidentiary hearing, scheduled for February 16, 2022, is **CANCELLED**.

3. SUMMARY JUDGMENT MOTION HEARING

- 3.1. Hearing Date: Decided without oral argument
- 3.2. Administrative Law Judge: Dan Gerard
- 3.3. Appellant: Benjamin Williams
- 3.4. Agency: Gambling Commission
 - 3.4.1. Representative: Doug Van de Brake, Assistant Attorney General
- Documents Considered: The following documents were considered for purposes of the Gambling Commission’s Motion for Summary Judgment:

Doc. No.	Document Name	Document Date	No. Pages
1	Gambling Commission’s Notice of Administrative Charges	08/04/21	7
2	Appellant’s Request for Administrative Hearing	08/19/21	2
3	Office of Administrative Hearings (“OAH”) Prehearing Conference Order	09/30/21	8
4	Gambling Commission Staff’s Motion for Summary Judgment	11/29/21	12
5	Declaration of Special Agent Tyna Antonson in Support of Gambling Commission’s Motion for Summary Judgment, with attached Exhibits 1-8	11/29/21	47

[Continued]

4. FACTS FOR PURPOSE OF SUMMARY JUDGMENT

On a motion for summary judgment, the decision maker only considers those facts for which the parties establish “no genuine issue as to any material fact”.¹ “Summary judgment is appropriate only where the undisputed facts entitle the moving party to judgment as a matter of law.”² Only evidence in the record and inferences from that evidence establish facts. If evidence in the record points to more than one possible finding of fact, then summary judgment may not rest on the moving party’s version of that fact.³ Admissions, stipulations, procedural history, and uncontested declarations and affidavits establish facts for summary judgment. So, the record here supports the following facts for the purposes of summary judgment:

Jurisdiction

- 4.1. On August 4, 2021, the Washington State Gambling Commission issued a Notice of Administrative Charges revoking the CRE License of Appellant, Benjamin Williams. The Gambling Commission revoked Appellant’s License No. 68-33724 because Appellant cheated in the first degree in violation of RCW 9.46.1961, and obtained unauthorized control over the property of another in violation of RCW 9A.56.050.
- 4.2. On August 19, 2021, the Appellant contested the Gambling Commission’s revocation of his CRE License and requested an administrative hearing.

Gambling Commission Motion for Summary Judgment

- 4.3. On November 29, 2021, the Gambling Commission (“Commission”) filed a Motion for Summary Judgment, along with the Declaration of Special Agent Tyna Antonson in Support of Commission’s Motion for Summary Judgment, with attached Exhibits 1-8.
- 4.4. The Appellant did not file a response to the Commission’s Motion for Summary Judgment.
- 4.5. As of the date of this Initial Order, the Appellant has failed to file any response, or provide any documentation, challenging the Commission’s motion.

Appellant’s Card Room Employee License and Gaming Activities

- 4.6. Washington State Gambling Commission issued to Appellant Public Card Room Employee License No. 68-33724. *Exhibit (“Ex.”) 7; Declaration of Washington*

¹ WAC 10-08-135. In Superior Court matters, CR 56 governs summary judgment. Where the relevant procedural rules do not conflict with CR 56, it and the cases interpreting it serve as persuasive authority in the management of summary judgment under WAC 10-08-135.

² *Verizon NW, Inc. v. Employment Sec. Dep’t*, 164 Wn.2d 909, 916 (2008), *citing Alpine Lakes Prot. Soc’y v. Dep’t of Natural Res.*, 102 Wn. App. 1, 14 (1999).

³ *Verizon NW*, 164 Wn.2d 916.

State Gambling Commission Special Agent Tyna Antonson (“Antonson Declaration”).

- 4.7. Appellant was an employee of Caribbean Casino (“Casino”), in Yakima, Washington during the events described below. *Id.*
- 4.8. Benjamin Williams (“Appellant”) worked on gaming tables dealing cards for the card game Ultimate Texas Hold’em. *Ex. 1; Antonson Declaration.*
- 4.9. Ultimate Texas Hold’em is a poker game played with a standard deck of cards. Two cards, called hole cards, are dealt face down to each player, and then five community cards are dealt face up, in three stages. *Antonson Declaration.* A player’s final hand is determined by the best five of the seven cards in play, their two hole cards and the five community cards. *Id.*
- 4.10. There are several types of wagers associated with Ultimate Texas Hold’em, including “ante”, “blind”, “play”, “trips”, “progressive”, and “ultimate pairs bonus”. *Id.* The payout for each winning hand is outlined on an approved pay table. *Ex. 5.*
- 4.11. On March 29, 2021, at approximately 7:30 p.m., a player placed a \$1 token bet on the Triple Bonus bet slot (“trips”) for Appellant. *Ex. 1; Ex. 6; Antonson Declaration.* The player did not place a token bet for Appellant on the “ultimate pairs bonus” slot. *Id.*
- 4.12. A token bet is the practice of a player placing a wager on behalf of the dealer as a tip or gratuity. If the player wins the underlying bet, the dealer is paid the appropriate payout for the tipped bet. If the player’s underlying bet lost, the dealer’s tip is also lost. *Antonson Declaration.*
- 4.13. For the hand with the trips token bet, Appellant dealt the player hole cards of an ace of diamonds and a king of diamonds. *Ex. 1; Ex. 6; Antonson Declaration.* The player did not win the trips bet with any combination of the player’s hole cards and community cards. *Id.*
- 4.14. The player’s “ultimate pairs bonus” bet won with the combination of the ace of diamonds and king of diamonds as his hole cards. *Id.* The payout for a matching suit ace and king for the “ultimate pairs bonus” is 25 to 1. *Ex. 5.*
- 4.15. After Appellant turned over the player’s hole cards, Appellant placed his hand over the trips token bet, but did not remove it. *Ex. 1; Ex. 6; Antonson Declaration.* Appellant removed the player’s wager on the trips bet and placed the wager in his dealer’s tray. *Id.*
- 4.16. Appellant paid the player on his winning “ultimate pairs bonus” wager and then placed a \$25 chip next to the losing \$1 trips token. *Id.* After collecting the rest of

the cards from the table, Appellant removed the \$25 chip and placed it in his token box. *Id.*

- 4.17. A token box is a drop box into which the dealer's winning token bets are deposited. *Antonson Declaration*. The tokens a dealer receive throughout their shifts are the dealer's money and not the casino's.
- 4.18. Shortly after the hand, the player reported to the employer that Appellant paid himself on the losing trips token bet. *Id.*
- 4.19. On April 1, 2021, the Casino informed Special Agent Tyna Antonson with the Washington State Gambling Commission Staff ("Agent Antonson") of the alleged theft of the \$25 token payout on the losing hand. *Id.*
- 4.20. Agent Antonson reviewed the casino's internal video surveillance and confirmed the events described above. *Ex. 1; Ex. 6; Antonson Declaration*.
- 4.21. As a result, Agent Antonson concluded Appellant cheated in the first degree because as a licensed card room employee, Appellant paid himself on a losing token bet. *Ex. 7; Antonson Declaration*. Agent Antonson additionally concluded Appellant's actions constituted theft because by paying himself on a losing token bet, Appellant took control of the \$25 chip, which was the property of the Caribbean Casino. *Id.*
- 4.22. On August 6, 2021, the Commission send Appellant the August 4, 2021 Notice of Administrative Charges revoking his CRE License. *Ex. 8*.

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.

Summary Judgment Motions, Applicable Statutes, Regulations and Case Law

- 5.2. WAC 10-08-135 'Summary judgment' provides:

A motion for summary judgment may be granted and an order issued if the written record shows that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.
- 5.3. "Summary judgment is appropriate only where the undisputed facts entitle the moving party to judgment as a matter of law." *Verizon NW, Inc. v. Employment*

Sec. Dep't, 164 Wn.2d 909, 916 (2008), *citing Alpine Lakes Prot. Soc'y v. Dep't of Natural Res.*, 102 Wn. App. 1, 14 (1999).

- 5.4. Admissions, stipulations, procedural history, and uncontested declarations and affidavits establish facts for summary judgment.
- 5.5. In Superior Court matters, CR 56 governs summary judgment. Where the relevant procedural rules do not conflict with CR 56, it and the cases interpreting it serve as persuasive authority in the management of summary judgment under WAC 10-08-135.
- 5.6. Civil Rule 56(e) provides: "If the adverse party does not so respond, summary judgment, if appropriate, shall be entered against the adverse party."

Gambling Commission Policy, Rules & Regulations

- 5.7. 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.

- 5.8. RCW 9.46.040 also authorizes the Gambling Commission to enforce the rules and regulations relating to gambling activities in the State.
- 5.9. Cheating is defined as actions which:
 - 1) Employ or attempt to employ any device, scheme, or artifice to defraud any other participant or any operator;
 - 2) Engage in any act, practice, or course of operation as would operate as a fraud or deceit upon any other participant or any operator;
 - 3) Engage in any act, practice, or course of operation while participating in a gambling activity with the intent of cheating any other participant or the operator to gain an advantage in the game over the other participant or operator; or
 - 4) Cause, aid, abet, or conspire with another person to cause any other person to violate subsections (1) through (3) of this section.

RCW 9.46.196

- 5.10. Cheating in the first degree.

- 1) A person is guilty of cheating in the first degree if he or she engages in cheating and:

- a) Knowingly causes, aids, abets, or conspires with another to engage in cheating; or
- b) Holds a license or similar permit issued by the state of Washington to conduct, manage, or act as an employee in an authorized gambling activity.

RCW 9.46.1961(1)(a) and (b)

- 5.11. Theft is defined as to wrongfully obtain or exert unauthorized control over the property or services of another or the value thereof, with intent to deprive him or her of such property or services. RCW 9A.56.020(1)(a).
- 5.12. Theft in the third degree is the theft of property or services which (a) does not exceed seven hundred fifty dollars in value. RCW 9A.56.050(1).
- 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 for:
 - 1) Violating, failing or refusing to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW...;
 - 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) and (8).

Application of the Law

- 5.16. On March 29, 2021, Appellant left the losing token bet for the trips bet slot on the table and paid the lost token bet as though it was played on the “ultimate pair bonus” slot. Appellant defrauded the casino, and committed cheating as defined in RCW 9.46.196(1), by paying himself on an un-played “ultimate pair bonus” bet

slot from the token on a losing trips bet slot. As such, Appellant, as an individual who holds a gaming license, was in violation of RCW 9.46.1961 for engaging in cheating.

- 5.17. On March 29, 2021, Appellant wrongfully obtained the possession of the Casino's \$25 after paying himself on un-played "ultimate pair bonus" bet from the lost token bet on trips bet slot. This is theft as defined by RCW 9A.56.020(1)(a). More specifically, Appellant violated RCW 9A.56.050(1), by committing theft in the third degree.
- 5.18. Appellant did not file any response to the Commission's Motion for Summary Judgment, contesting he cheated in the first degree or wrongfully obtained unauthorized control over the property of another.
- 5.19. The Appellant has raised no genuine dispute of material fact as to whether or not his cheating in the first degree or theft in the third degree does not constitute a sufficient basis for the revocation of his Public Card Room Employee License in accordance with RCW 9.46.075 and WAC 230-03-085. Therefore, the Commission's Motion for Summary Judgment is **GRANTED**.
- 5.20. The Gambling Commission is authorized to revoke Appellant's CRE License on RCW 9.46.075(1) and (8), and WAC 230-03-085(1) & (9)(a). The Gambling Commission's revocation of Appellant's CRE License, is **AFFIRMED**.
- 5.21. Since the revocation of Appellant's CRE License is **AFFIRMED**, no fact-finding hearing is warranted. Therefore, the evidentiary hearing, scheduled for February 16, 2022, is **CANCELLED**.

6. INITIAL ORDER:

- 6.1. No genuine dispute of material fact exists as to whether Appellant cheated in the first degree, in violation of RCW 9.46.1961. No genuine dispute of material fact exists as to whether Appellant committed theft in the third degree in violation of RCW 9A.56.050. No genuine dispute of material fact exists as to whether Appellant's actions posed such a threat to the effective regulation of gambling to warrant the revocation of his license, pursuant to RCW 9.46.075(1) and Washington Administrative Code ("WAC") 230-03-085(1) and (9)(a). The Gambling Commission's Motion for Summary Judgment is **GRANTED**.
- 6.2. Appellant has not proven by 'clear and convincing evidence' he is qualified for licensure, as required by RCW 9.46.153(1).
- 6.3. The Gambling Commission is authorized to revoke Appellant's CRE License based on RCW 9.46.075(1), RCW 9.46.153(1), and WAC 230-03-085(1) and

(9)(a). The Gambling Commission's revocation of Appellant's CRE License, is **AFFIRMED**.

6.4. Since the revocation of Appellant's CRE License is **AFFIRMED**, no fact-finding hearing is warranted. Therefore, the evidentiary hearing, scheduled for February 16, 2022, is **CANCELLED**.

SIGNED at Tacoma, Washington on the date of mailing.



Dan Gerard
Administrative Law Judge
Office of Administrative Hearings

CERTIFICATE OF SERVICE IS 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.⁴ 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.

⁴ WAC 230-17-090.

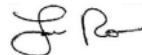
CERTIFICATE OF SERVICE FOR OAH DOCKET NO. 09-2021-GMB-00184

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

Benjamin Williams 500 University Parkway Apt. 478 Yakima, WA 98901 Appellant	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> E-mail
Benjamin Williams 721 Ames Rd. Selah, WA 98942 Appellant	<input checked="" type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> E-mail
Doug Van de Brake, AAG Office of the Attorney General PO Box 40100; MS: 40100 Olympia, WA 98504 Agency Representative	<input type="checkbox"/> First Class Mail <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Campus Mail <input checked="" type="checkbox"/> E-mail Doug.VandeBrake@atg.wa.gov Jordan.Nimon@atg.wa.gov GCEEF@atg.wa.gov
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Date: Wednesday, January 19, 2022

OFFICE OF ADMINISTRATIVE HEARINGS



Tamara Roberson
Legal Assistant 2