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STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE WASHINGTON STATE GAMBLING COMMISSION

GAMBLING COMMISSION
COMM & LEGAL DIVISION

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

LILIA VALLEY,

Licensee.

No. CR 2009-00283 C
OAH No. 2009-GMB-0049

CORRECTED FINDINGS OF
FACT, CONCLUSIONS OF LAW
AND INITIAL ORDER

An Initial Order was issued by the undersigned Administrative Law Judge on December 1, 2009. That order incorrectly AFFIRMED the decision of the Commission to revoke the Public Card Room license of the appellant when the Commission had not issued a prior decision. This order modifies and supercedes the prior order. This order is modified in the Initial Order paragraph only, with additions underlined and deletions stricken.

Administrative Law Judge Jason H. Grover held an administrative hearing on September 23, 2009, at the Washington State Gambling Commission, 4565 7th Avenue SE, Lacey, Washington. At the hearing the Commission Staff was represented by the Office of the Attorney General through H. Bruce Marvin, Assistant Attorney General. Lilia Valley, appeared and represented herself. There were twenty-two exhibits offered during the hearing and all were admitted without objection. Testimony was provided by the Licensee and Keith Kam, a Special Agent with the Washington State Gambling Commission.

STATEMENT OF THE CASE

At issue is the revocation of a license to conduct gambling activities issued to Lilia Valley. On May 12, 2009, the director of the Washington State Gambling Commission (Commission) caused a Notice of Administrative Charges and Opportunity for an Adjudicative

Proceeding to be issued to Ms. Valley alleging that her card room employee license was subject to revocation pursuant to RCW 9.46.075(1), (2) and (8); and WAC 230-03-085 (1) and (8) based upon the following acts and omissions by the licensee:

1. Falsification of entries on casino forms, and knowing assistance to another to violate state laws and gambling rules in violation of RCW 9.46.170 and RCW 9.46.180.
2. Failure to report to commission staff that her supervisor instructed her to alter forms in violation of RCW 9.46.153(3).
3. Fraud and deceit in violation of RCW 9.46.190.

Ms. Valley timely applied for an adjudicative proceeding on May 20, 2009.

FINDINGS OF FACT

1. Lilia Valley, the licensee, was a swing shift cage cashier at Skyway Park Bowl (Skyway). She holds license number 68-04250, Authorizing Card Room Employee Activity. The license expires on February 10, 2010, and was issued subject to the licensee's compliance with state gambling laws and regulations.
2. As a cage cashier, Ms. Valley is responsible for maintaining accurate records of transactions that she performs, in accordance with the requirements of state law and Skyway's internal controls.
3. In February 2009, Commission Special Agent Keith Kam began a compliance inspection at Skyway. Agent Kam discovered forty (40) altered Fill and Credit Request Forms and Fill Slips (forms). The dates of the altered forms were between February 2007

and January 2009. The dollar amounts on each original form were altered to show \$1,000.00 more than the duplicate and triplicate copy of the same form. Ms. Valley signed thirty-six of the forty altered forms. Additionally, she was scheduled for the swing shift following the day shift when the other four altered forms were signed. She had access to those forms during her shift.

4. A "Fill and Credit Request Form" is a duplicate form that a floor supervisor fills out to request funds from the cashier's cage for a gaming table. A security guard takes the original to the cashier cage, and the duplicate remains at the gaming table until the funds arrive.

5. A "Fill Slip" is a numbered triplicate form that the cage cashier fills out when the cashier receives an original "Fill and Credit Request Form." A security guard and surveillance verify the amount on the "Fill and Credit Request Form" and the "Fill Slip" are the same. The security guard returns to the gaming table with the funds and the original and duplicate of the "Fill Slip." The cage cashier keeps the original "Fill and Credit Request Form." The triplicate copy of the "Fill Slip" is kept in a locked dispenser in the cashier cage. Once the gaming table receives the funds, the dealer and the floor supervisor verify the amount and sign the "Fill Slip." The dealer places the duplicate "Fill Slip" in a drop box on the gaming table and the security guard returns the original "Fill Slip" to the cashier's cage. The cage cashier attaches the original "Fill Slip" to the original "Fill and Credit Request Form."

6. On March 2, 2009, Special Agent Kam reviewed the Surveillance Activity Logs (SAL). The SAL are created to document the amounts of the fill at the time that the fill is completed. The amounts reflected on the SAL for the dates that the forms were altered did not match the amounts reflected on the original forms. However, the SAL did match the amounts on the duplicate and triplicate copies. This indicates that the forms were altered after the fill procedure was completed.

7. Special Agent Kam also reviewed the cage records that Ms. Valley prepared at the end of the business day (Closure). These records are prepared by the cage cashier to record the ending balance of currency, coin and chips in the cashier cage. The Closure has a section that records the total fill amounts performed that day. For the dates that the forms were altered, Ms. Valley also altered the total fill amount on the Closure record so that the totals would match.

8. The Cage Access Log documents the date, name, time in, time out and purpose of the person who accessed the cage. For the dates that the forms were altered, Ms. Valley worked the swing shift and was the only person in the cashier cage. Therefore, Ms. Valley was the only person who had access and the opportunity to alter the forms, including the four altered forms signed by day shift cashiers.

9. James Gray was comptroller for the casino. On March 11, 2009 Mr. Gray admitted to Special Agent Kam, following Miranda, that:

(a) He embezzled \$48,800 from Skyway.

(b) He took money from Skyway to pay back Roman Casino for NSF checks that he wrote to Roman Casino.

(c) He had Ms. Valley alter the forms.

10. Special Agent Kam interviewed Ms. Valley on March 12, 2009. She initially denied altering the forms, but admitted that she altered "one or two" when Special Agent Kam informed her that Mr. Gray had admitted it. Ms. Valley told Special Agent Kam that she didn't question Mr. Gray's request that she alter the forms because Mr. Gray told her that the owner of Skyway wanted them altered to avoid taxes.

11. At the hearing, Ms. Valley admitted that she and Mr. Gray altered the forms and that she did so on Mr. Gray's instructions for tax purposes. Ms. Valley admitted that she knew that Mr. Gray was altering slips. Ms. Valley admitted that she did not report Mr. Gray to the owner of Skyway or to the commission.

12. Ms. Valley knew that altering the forms was not proper fill procedure.

13. Because Ms. Valley altered the forms, Mr. Gray was able to conceal his theft from Skyway.

CONCLUSIONS OF LAW

1. The undersigned administrative law judge has jurisdiction to hear and initially decide this matter. RCW 34.05.485(1)(c), 34.12.040 and WAC 230-17-025.

2. During the time material hereto, Ms. Valley, has been the holder of a license Authorizing Card Room Employee Activity and is subject to the provisions of chapters 9.46

RCW and 230-03 WAC.

3. It is the affirmative responsibility of each licensee to establish by clear and convincing evidence her qualifications for licensing. 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 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.

4. When considering this case, review of the legislative declaration in the Gambling Act of Washington is instructive. RCW 9.46.010 provides that "[t]he public policy of the state of Washington 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." In essence, those persons who wish to work in this highly regulated industry are held to the very highest standards. The law leaves no room for criminal activity or dishonesty in these activities.

5. RCW 9.46.075 provides in relevant part as follows:

Gambling Commission - Denial, suspension, or revocation of license, permit - Other provisions not applicable. 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;

...

(2) Knowingly causes, aids, abets, or conspires with another to cause, any person to violate any of the laws of this state or the rules of 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(1), (2) and (8) (bold in original).

6. RCW 9.46.170 prohibits licensees from making any false or misleading statement or entry in any book, record, or document required to be maintained or made by federal or state law.

7. RCW 9.46.180 provides that any person who knowingly causes, aids, abets, or conspires with another to cause any person to violate any provision of this chapter shall be guilty of a class B felony.

8. RCW 9.46.190 provides that any person who directly or indirectly: (1) employs any device, scheme or artifice to defraud; or, (2) makes any untrue statement of material fact; or, (3) engages in any act, practice or course of operation as would operate as a fraud or deceit upon any person; shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.02.021.

9. RCW 9.46.153(3) imposes a duty on all licensees under the chapter to inform the Commission or its staff of any action or omission which they believe would constitute a violation of RCW 9.46 or rules adopted pursuant thereto.

10. By rule, the Commission has reiterated many of the provisions of RCW 9.46.075. The Commission may suspend or revoke any license when the licensee: commits any act which justifies suspension or revocation under RCW 9.46.075 (WAC 230-03-085(1)); 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 or (c) Reputation; or (d) Habits; or (e) Associations. (WAC 230-03-085(8)).

11. To closely control all factors incident to the activities authorized in chapter 9.46 RCW, the provisions of the chapter shall be liberally construed to achieve such ends. RCW 9.46.010.

12. In the present case, Ms. Valley made false entries on casino forms and knowingly aided Mr. Gray in violating state laws and gambling rules in violation of RCW 9.46.170 and RCW 9.46.180. By failing to report to Commission staff that Mr. Gray instructed her to alter forms, Ms. Valley violated RCW 9.46.153(3). Ms. Valley's actions constitute fraud or deceit in violation of RCW .46.190.

13. Ms. Valley's actions demonstrate that she is a threat to the effective regulation of gambling, creates, or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities. Therefore, she has failed to prove by clear and convincing evidence that she is qualified for a gambling license under RCW 9.46.153(1).

14. The Commission is justified in revoking Ms. Valley's public card room license pursuant

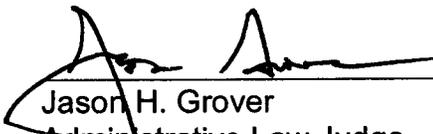
to RCW 9.46.075 (1), (2) and (8) and pursuant to WAC 230-03-085 (1) and (8).

15. At this time, the charges must be affirmed.

INITIAL ORDER

IT IS HEREBY ORDERED, That the decision of the Commission to revoke the Public Card Room Employee license of Ms. Valley, is hereby **AFFIRMED** That Lilia Valley's Public Card Room Employee license to conduct gambling activities is hereby **REVOKED**.

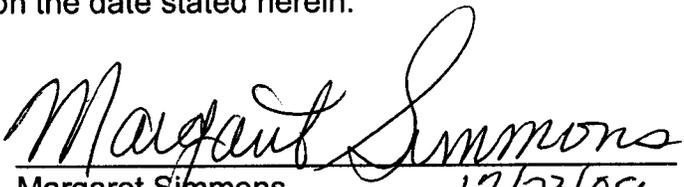
DATED at Olympia, Washington this 23rd day of December, 2009.



Jason H. Grover
Administrative Law Judge
Office of Administrative Hearings

Certificate of Service

I certify that I mailed a copy of this order to the within-named interested parties at their respective addresses postage prepaid on the date stated herein.



Margaret Simmons
Legal Secretary
12/23/09

NOTICE TO THE PARTIES

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.

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