

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension or)
Revocation of the License to Conduct) No. CR 2010-00053
Gambling Activities of:)
)
Gregory Mykland) **NOTICE OF ADMINISTRATIVE**
Tacoma, Washington,) **CHARGES AND OPPORTUNITY**
) **FOR AN ADJUDICATIVE**
) **PROCEEDING**
Licensee.)
_____)

I.

The Washington State Gambling Commission issued Gregory Mykland the following license:

- 22-00832, authorizing Gambling Distributor activity, formerly at Gasperetti's Distributing.

The license expires on July 19, 2010, and was issued subject to the licensee's compliance with state gambling laws and rules.

II.

Dave Trujillo, Deputy Director of the Washington State Gambling Commission, charges the licensee with the following violations of the Washington State Gambling Act, 9.46 RCW, and WAC Title 230.

SUMMARY:

On multiple occasions between September and December, 2009, the licensee, a distributor representative, sold pull-tabs to customers for cash, and kept the money for his own use. In addition, the licensee used a company gas charge card to purchase gasoline for his personal vehicle. An inventory reflected a shortage of over six-thousand dollars attributed to the licensee's behavior.

FACTS:

On January 13, 2010, a Commission Special Agent (agent) was contacted by Mark Wood, president of Gasperetti's Distributing, who requested a meeting to discuss a theft by a Gasperetti's employee. An agent met with Mr. Wood on January 13, 2010, and was informed that Mr. Wood believed his former driver, Gregory Mykland, had stolen several thousand dollars from Gasperetti's. Mr. Wood informed the agent that Mr. Mykland accomplished the theft by keeping money received from customers that was intended for company sales, and by using the company credit card to purchase gasoline for vehicle(s) not belonging to Gasperetti's.

- Gasperetti's is a distributor of gambling equipment. Their main distribution center is in University Place. Gasperetti's sells pull-tabs,¹ punchboards, and other merchandise to licensed operators. Mr. Mykland is a licensed distributor representative and a salesman/driver for Gasperetti's Distributing. Customers of Gasperetti's purchase items by either calling in their order, physically going to a Gasperetti's distribution center, or by buying items directly from a Gasperetti's salesman/distributor representative, who also delivers the items to the customers.
- Salesmen arrive at the distribution center in the morning to pick up their orders, and to resupply their company trucks with punchboards, pull-tabs, and merchandise.
- Salesmen at Gasperetti's are supposed to have the form number of each pull-tab series loaded into their truck scanned prior to loading them onto the truck. Most salesmen have their series scanned by a warehouse employee, although many help with the scanning process. Pull-tab series that have been ordered by customers are transferred onto a salesman's truck and placed on an invoice. Pull-tab series that are transferred to the salesman's truck to resupply their inventory are transferred via a transfer report.
- Invoices have four copies, white, green, pink and yellow. If customers or a salesman calls in an order to the warehouse, the green copy is removed and placed in a box at Gasperetti's at the time it is printed, and the items are loaded onto a salesman's truck. Throughout the day, the green copy is taken upstairs to the accounting staff, where it is filed in a green zip file, by the salesman's name. The white and pink copies go to the customer at the time of the sale. The yellow copy is returned to the accounting office with the cash or check, after the item has been sold. When the yellow copy is returned with the payment, it is matched up with the green copy to verify that all orders have been completed, and all monies have been returned. If any green copies do not have a matched yellow copy, management follows up regarding their status. If sales are made directly from the truck by a salesman, no green copy is kept in the office, until the yellow and green copies are returned together with the payment.
- Salesmen are authorized to sell merchandise in three ways:
 - They can use the pre-printed invoice prepared at the distribution center for call-in orders;
 - They can sell series in their inventory by scanning individual series and printing out an invoice, using the computer and printer on their truck; or
 - They can sell series from their inventory by hand writing an invoice from from a book of invoices to be used when there is a problem with the computer or printer on the truck.

¹ A pull-tab game or series consists of either folded or banded tabs that conceal number(s) or symbol(s) from view, or cards with the face covered by perforated window(s) or otherwise hidden to conceal number(s) or symbol(s) from view. Some of the number(s) in each series of pull-tabs have been selected in advance and at random as prize winners. After buying a pull-tab, a player opens the pull-tab, and if the numbers or symbols on the pull-tab match the flare, the player wins the prize.

- Each of the invoice numbers are tracked in the accounting department on a check sheet. Invoices are supposed to be turned in with the monies for the related sales on the next business day. Invoices may be held a day or two longer if the customer did not have the money to pay for the items at the time of sale. Invoices should be not held by the salesman for over two days.
- The agent's interview with Mr. Wood revealed the following information:
 - Mr. Mykland was with Gasperetti's for close to 20 years, and had been a trusted employee. Recently however, Mr. Wood discovered some things that led him to believe Mr. Mykland had stolen from Gasperetti's.
 - Mr. Mykland recently changed the location where he gassed up the company truck. Receipts from the new provider reflect the time the pump is used. At least three receipts show that Mr. Mykland used the company credit card to purchase gasoline when the company truck was parked as Gasperetti's. Witnesses verified the location of the truck.
 - On December 23, 2009, Mr. Wood found green and yellow copies of invoices for pull-tab games sold to licensees dated from September through December, 2009 in Mr. Mykland's truck. Mr. Wood stated that there is no legitimate reason for such invoices to be in the truck, because they are supposed to be turned in the day after the sale. Mr. Wood verified that these invoices had not been processed in accounting, and that the money had not been received by Gasperetti's.
 - Upon further review, Mr. Wood observed that Mr. Mykland had not turned in approximately 43 loose invoices that were unaccounted for. These are the invoices to be used if the computer and printer were not functioning.
 - An inventory of pull-tab games from Mr. Mykland's truck performed in late November 2009 found that an adjustment of \$6,584.21 was needed to correct the shortage in his inventory. Specifically, this amount in value of pull-tab series were removed from the truck without being recorded on an invoice turned in to Gasperetti's.
 - On January 14, 2010, an agent went to Golden West Saloon in Tacoma and spoke to owner Art Centoni. Mr. Centoni stated that he pays cash for all his games; he showed the agent copies of his Gasperetti's invoices. He had a hand written invoice that matched a copy that Mr. Wood found in Mr. Mykland's truck. The agent also contacted Roman Casino regarding another invoice found in Mr. Mykland's truck. Casino manager Mike Lowe stated that although they usually pay Gasperetti's by check, on this occasion they paid in cash. The agent also spoke with a representative of New Siren tavern in Seattle, regarding a missing invoice. The contact confirmed that they had paid in cash.

- Mr. Wood provided the agent with the invoices, as well as the gas receipts in question. Mr. Wood confirmed the inventory results, and reported that trucks are off at the most by a few hundred dollars in a normal inventory.
- The agent interviewed Gasperetti's salesmen, Eric Lubahn, Mike Newby and Tim Parker. The salesmen agreed that invoices and payments can be turned in up to one week later than the sale, at the latest. It was their regular course of business to turn in an invoice the day of, or the day after a sale. The salesman confirmed that Mr. Mykland scanned in all of his own games. They also reported that Mr. Mykland had a second job, delivering papers. The salesmen noted that Mr. Mykland was usually at the distribution center before anyone else. Mr. Parker reported that he understood that Mr. Mykland was struggling financially. Warehouse worker, Ron Thomas reported to the agent that Mr. Mykland always left the distribution center by 5:00 p.m. and that he always left in his personal vehicle.
- The alleged invoices for unauthorized gasoline purchase reflect purchases occurring after 5:00 p.m. One receipt is for a morning purchase. This is included, according to Mr. Wood because Mr. Mykland allegedly gassed up the truck at the end of his shift the evening before.
- The agent interviewed Mr. Mykland on February 11, 2010. In the interview Mr. Mykland stated the following:
 - Mr. Mykland has worked for Gasperetti's for 19 years. He works from 8:00 a.m. to 5:00 p.m. He enjoyed his work, and liked all of his supervisors and co-workers. He had no problems at work. Mr. Mykland stated he returns invoices and payments for sales at the end of the day. If no-one was there upon his return from sales, he would keep the invoices and payments loose under the seat of his truck, put it in a bank bag in the morning, and put it in the safe. If items were not delivered on the same days as payment or invoicing, he would keep the invoice until the next day, and then deliver it.
 - Mr. Mykland confirmed that his method of payment had varied over the years of his Gasperetti's employment He had been paid hourly, then on a salary, and finally by commission. He said his financial situation "sucks." He reported that he has way too many bills, and creditors call him every day. He reported \$35,000 in debt.
 - Mr. Mykland confirmed that he pays for his company truck gas on the company credit card at local "76" gas stations. He said he gets back to the shop between 4:00 and 4:30 p.m. each workday, and never goes back out on the road for business after that time. He denied using the company credit card to gas up his personal vehicle. When questioned regarding the gas receipts, Mr. Mykland replied that the time stamp on the pumps was off.
 - When the agent inquired about the invoice issues, Mr. Mykland initially denied any wrongdoing. He also denied any bad behavior relative to the shortages noted in the inventory. Mr. Mykland stated that he thought he "was being framed." He said that he got along with everyone at work, and knew of no one with a grudge against him.
 - When confronted regarding his financial situation, factual inconsistencies, and witness confirmation, Mr. Mykland told the agent, "I'll do whatever you want me to do." He said he would be willing to give up his license, and was planning to get out of

the business anyway. He thereafter stated, "I'm telling the truth, I did it." He said he told Mr. Wood to total up the money missing from the invoices, and he would be willing to set up payments. He ultimately admitted to stealing gas on one occasion and to keeping cash from pull-tab sales without turning in the invoices.

- The agent went to the gas station pumps identified by Mr. Mykland as having inaccurate time stamps. The pump time stamps were all within 5 minutes of the correct time, except for one that was one day ahead, and 30 minutes behind. The managers/clerks interviewed at the stations denied that there has been any issue with pump time stamps during the time period at issue other than the one which was a day off.
- This case was submitted to the Pierce County prosecutor for review as a property crime.
- Mr. Mykland stole over six thousand dollars from Gasparetti's distributing between September 2009 and December, 2009, by selling pull-tab games to customers for cash, and keeping the cash for himself. He also used the company credit card for gasoline for his personal vehicle on multiple occasions during the same time period. Mr. Mykland defrauded his employer, in violation of RCW 9.46.190 and has failed to prove that he is qualified to hold a gambling license, in violation of RCW 9.46.153.
- Therefore, grounds exist to suspend or revoke Gregory Mykland's license under RCW 9.46.075(1), (8), and (10), WAC 230-03-085(1) and (8).

VIOLATIONS:

RCW 9.46.075 Suspending or revoking a license or permit states:

The Commission may 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: (The following subsections apply.)

(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) Has failed to prove by clear and convincing evidence qualifications for licensure.

(10) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain;

WAC 230-03-085 Suspending or revoking a license or permit states:

We may suspend or revoke any license or permit, when the licensee or anyone holding a substantial interest in the applicant's or licensee's business or organization:
(The following subsection applies.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(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:

RCW 9.46.190 Violations relating to fraud or deceit states:

Any person, association, or organization operating any gambling activity who or which, directly or indirectly, shall in the course of such operation: (The following subsections apply.)

(1) Employ any device, scheme, or artifice to defraud; or

(3) Engage 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.

RCW 9.46.153 Applicants, licensees-Responsibilities, and duties-Waiver of liability- investigation statement as privileged (1) states:

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.

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III.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

The licensee will have the opportunity to have a hearing on the alleged violations.

In order to have a hearing or discuss settlement options, the enclosed REQUEST FOR HEARING must be COMPLETED AND RETURNED to the Gambling Commission *within 23 days* from the date of the mailing of this notice.

Based on RCW 34.05.440, failure to return this document will result in the entry of a default order REVOKING your license.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

Dave Trujillo being duly sworn on oath, says: That he has read this Notice of Administrative Charges and Opportunity for An Adjudicative Proceeding, knows the contents of it, believes it to be true, that he is the Deputy Director of the Washington State Gambling Commission and in that capacity has executed said Notice.

Dave Trujillo
DAVE TRUJILLO, DEPUTY DIRECTOR

SUBSCRIBED AND SWORN TO before me
this 1st day of April, 2010.

[Signature]
NOTARY PUBLIC in and for the State of
Washington residing at Puyallup, WA.
My commission expires on July 16, 2013.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

I hereby certify that I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy thereof, properly addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 1st day of April, 2010

[Signature]
Communications and Legal Department
Washington State Gambling Commission



