

JUN 13 2013

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

Gambling Commission  
Comm. & Legal Division

In the Matter of the Summary Suspension  
of the License to Operate Gambling  
Activities of:

Docket Number: 2013-GMB-0014  
Agency Number: CR 2012-01571

QIANG LI  
Everett, Washington

INITIAL ORDER REVOKING  
GAMBLING LICENSE

LICENSEE,

Administrative Law Judge John M. Gray conducted an administrative hearing in this matter on April 16, 2013, at the Gambling Commission Office, 4565 7<sup>th</sup> Avenue, Lacey, Washington.

Stephanie Happold, Assistant Attorney General, appeared and represented the Washington State Gambling Commission ("Commission"). Brandon Rhodes, Special Agent, Gambling Commission, appeared and testified as the witness for the Commission.

Qiang Li ("Mr. Li") appeared and testified on behalf of himself at the April 16 hearing. Mr. Li had no other witnesses.

On February 14, 2013, the Commission issued Findings of Fact, Conclusions of Law and Order of Summary Suspension of License, summarily suspending Mr. Li's gambling license. An agent personally served Mr. Li with a copy of that document on February 16, 2013. Mr. Li sought filed a request for a stay hearing and a request for a hearing on February 27, 2013. The stay hearing was held on March 5 and 7, 2013.

The undersigned Administrative Law Judge issued an Order Denying Request for Stay of Summary Suspension of License on March 14, 2013.

The Commission issued a Notice of Hearing on March 23, 2013, for the hearing on the merits on April 16, 2013. The Commission sent the Notice of Hearing to Mr. Li at his mailing address of 1409 123<sup>rd</sup> Pl. SE, Everett, WA 98208-5949.

At the hearing on the merits, the Commission offered twenty-two exhibits. Exhibit No. 22 is a DVD-R. All of the exhibits were admitted without objection.

Mr. Li offered no exhibits.

The Administrative law Judge, having considered the evidence, now enters the following Findings of Fact:

#### FINDINGS OF FACT

1. Mr. Li is employed at the Drift On Inn in Shoreline, Washington. He works there as a poker floor supervisor.
2. The Commission issued card room employee license no. 68-03743 to Mr. Li. Without more, that license will expire on October 31, 2013.
3. In October 2012, Mr. Li and the Commission agreed to settle an earlier Notice of Administrative Charges ("NAC"). They signed a Settlement Order, which the undersigned Administrative Law Judge signed on October 31, 2012. The Commission issued the earlier NAC because Mr. Li wrote a check in the amount of \$9,000 on October 15, 2011, to a casino, and Mr. Li did not have sufficient funds in his bank account to honor that check. The Settlement Order stated:

The licensee pursued economic gain in an occupational manner by cashing NSF checks at Parker's Sports Bar & Casino. As a result, his participation in gambling related activities would be inimical to the proper operation of gambling.

Additionally, his conduct demonstrates that he poses a threat to the effective regulation of gaming and increases the likelihood of illegal practices as demonstrated through his actions.

Pursuant to the Settlement Order, the Commission and Mr. Li agreed that Mr. Li's gambling license was suspended for the period of seven days, beginning at 8:00 AM on October 29, 2012, and ending at 8:00 AM on November 5, 2012. Exhibit 3, pp. 121-124.

4. The incident that led to the NAC in the present case arose on the night of Friday, November 2 and Saturday, November 3, 2012, at Mr. Li's place of employment, the Drift On Inn.

5. On the evening of Friday, November 2, 2012, Mr. Li and a friend had been drinking at a location other than the Drift On Inn.

6. Mr. Li knew that his license was suspended and that he could not work at the Drift On Inn. He also knew that he could go to the Drift On Inn as a patron and, in his capacity as a patron only and, with nothing more, not violate the terms of his Settlement Order.

7. Mr. Li rode with a co-worker to the Drift On Inn. There, he continued to drink and also to play poker.

8. Mr. Li played poker at the Drift On Inn on the evening and early morning hours of November 3, 2012. The Drift On Inn has surveillance cameras that captured Mr. Li's participation at a poker table. The surveillance video clearly showed Mr. Li as he played his card game. Exhibit 22.

9. Mr. Li did not appear to be intoxicated to the point that other staff would notice.

10. Mr. Li sat at the poker table and to his left, and slightly behind him, was a podium with a tall wall-mounted series of shelves. The shelves contained racks of poker chips, among (possibly) other things.

11. On nine occasions, Mr. Li turned to his left and caught the attention of another Drift On Inn employee. On each of those nine occasions, the employee brought a rack of chips to Mr. Li. Mr. Li did not pay for any of those racks of chips on any of the nine occasions. The times the events occurred are noted in Special Agent Rhodes' Case Report. Exhibit 1, page 13.

12. Mr. Li stopped playing poker when the Drift On Inn's manager, Steven Charie, instructed Mr. Li to leave. Exhibit 5.

13. The value of the chips Mr. Li received was \$2,200. Exhibit 12.

14. Mr. Li returned to the Drift On Inn on November 5, 2012, and paid \$2,300 to compensate the Drift On Inn for the chips that he had received, but failed to pay for, on November 3, 2012. Exhibit 13.

15. Mr. Charie notified the Commission of Mr. Li's acquisition of poker chips without paying for them. He sent an email to Special Agent Supervisor (SAS) Danny Lisa on November 3, 2012 (a Saturday) at 11:02 PM. Exhibit 4.

16. Special Agent Rhodes interviewed Mr. Li telephonically on November 3, 2012.

17. Special Agent Rhodes traveled to the Drift On Inn on November 6, 2012, to interview employees there involved in the incident on November 3.

18. Mr. Li acknowledges that he received the poker chips on November 3 without paying for them when he received them. He knew the rules of both the Drift On

Inn and the State of Washington, and that he could not obtain poker chips without paying for them when he obtained them.

19. Special Agent Rhodes wrote Case Report No. 2012-01571. He recommends that Mr. Li's gambling license be revoked.

20. The Commission summarily suspended Mr. Li's gambling license on February 14, 2013. The Commission served the Order of Summary Suspension on Mr. Li on two occasions. The first was by Special Agent Rhodes on February 16, 2013, at 8:17 PM at the Drift On Inn Casino. The second was by Maureen Pretell, Washington State Gambling Commission, on February 27, 2013 at the 3<sup>rd</sup> floor reception area of the Commission's offices at 4565 7<sup>th</sup> Avenue SE, Lacey, Washington.

21. Mr. Li filed both his Application for a Stay Hearing and his Request for Hearing on February 27, 2013.

#### CONCLUSIONS OF LAW

From the foregoing Findings of Fact, the Administrative Law Judge now enters the following Conclusions of Law:

1. The Office of Administrative Hearings has jurisdiction to hear and initially decide this matter in an adjudicative proceeding. RCW 9.46.140; 34.05.413; 34.12.030(1); and WAC 230-17-025.

2. The Commission bases its proposed revocation of Mr. Li's gambling license on the provisions of RCW 9.46.070; 9.46.075(1), (2), (8), (10), 9.46.153(1); 9.46.180; 9.46.185; and WAC 230-03-085(1), (3), (8).

3. RCW 9.46.075 is the Commission's legislative grant of authority to deny, suspend, or revoke gambling licenses or permits. "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 [chapter 9.46 RCW];

(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[.]”

4. RCW 9.46.153(1) declares that

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. “Clear and convincing evidence” is a higher burden of proof than

“preponderance of the evidence.” See, *Hardee v. Department of Social and Health Services*, 172 Wn.2d 1, 256 P.3d 339 (2011).

6. 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 subject to the penalty in RCW 9A.20.021.”

7. RCW 9.46.185 provides that "Any person who knowingly causes, aids, abets, or conspires with another to cause any person to violate any rule or regulation adopted pursuant to this chapter shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021."

8. WAC 230-03-085 states in plain language when the Commission will deny, suspend, or revoke an application, license or permit. "We [referring to the Commission] may deny, suspend, or revoke any application, license or permit, when the applicant, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

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

(3) has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level;

(4) 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 records; or

(c) reputation; or

(d) habits; or

(e) associations[.]"

9. Additionally, WAC 230-06-035 provides:

(1) Licensees, employees, or members must not offer or give credit, loans, or gifts to any person playing in an authorized gambling activity or which makes it possible for any person to play in an authorized gambling activity.

(2) Gifts are items licensees give to their customers. Licensees must not connect these gifts to gambling activities we regulate unless the gifts are:

(a) Gambling promotions; or

(b) Transportation services to and from gambling activities; or

(c) Free or discounted food, drink, or merchandise which:

(i) Costs less than five hundred dollars per individual item; and

(ii) Must not be traded back to you for cash; and

(iii) Must not give a chance to participate further in an authorized gambling activity.

(3) You must collect the price required to participate in the gambling activity in full before allowing someone to participate. Licensees must collect cash, check, gift certificate, gift card, or electronic point-of-sale bank transfer.

(4) If the price paid for the opportunity to play a punch board or pull-tab series is ten dollars or less, licensees may collect the price immediately after the play is completed.

(5) If a charitable or nonprofit organization has a regular billing system for all of the activities of its members, it may use its billing system in connection with the playing of any licensed activities as long as the organization limits play to full and active members of its organization.

(6) Charitable or nonprofit organizations may allow credit cards, issued by a state regulated or federally regulated financial institution, for payment to participate in raffles.

10. Some of the Commission's exhibits require analysis. Many of the exhibits contain hearsay. Any written or oral statement made by a person not present at the hearing constitutes hearsay. Although hearsay is admissible in an administrative hearing, it does not afford the parties their statutory right to conduct cross-examination. RCW 34.05.449, RCW 34.05.452. Therefore, the witness statements in Exhibits 5, 6, 7, 8, 9, 10, 11, and 12 are of limited use because none of those witnesses was under oath and subject to cross-examination at the hearing. I note that the statements are consistent with the admissible evidence produced in this case, but there are no Findings of Fact based on those exhibits by themselves. Mr. Charie's statement, at Exhibit 5, that he told Mr. Li to leave the casino, is a statement of the kind I could rely on pursuant to RCW 34.05.452(1).

11. Even without the witnesses' statements, however, the Commission's witness's testimony and its other exhibits, including the video (Exhibit 22), prove by a preponderance of the evidence that Mr. Li obtained poker chips on November 3, 2012, at the Drift On Inn in violations of the statutes and administrative rules cited in the

Conclusions of Law above.

12. Mr. Li argued at the hearing that it was the casino's employees' duty to stop him from gambling because he was drunk. However, Mr. Li cited no authority for that proposition, and the video does not depict Mr. Li as visibly intoxicated.

13. Mr. Li also argued that revocation of his gambling license is too harsh of a sanction. He testified that he has children to support. However, the evidence, including the video, shows Mr. Li asking for more poker chips on nine occasions and not paying for them. What is more, these events occurred during the relatively short period of time when his gambling license was suspended pursuant to the October 31, 2012, Settlement Order for issuing an NSF check to another casino.

14. It is hard to explain why a man with Mr. Li's years of experience in casinos would have jeopardized his gambling license when he could have avoided the problem simply by paying for the chips when he obtained them. He did so in view of the surveillance cameras and has admitted doing so. He did so at a time when his gambling license was already suspended because he had issued an NSF check in the amount of \$9,000 to another casino. I conclude that Mr. Li has failed to prove by clear and convincing evidence that he should continue to be licensed by the Commission. I conclude that Mr. Li's gambling license should be revoked because he obtained poker chips without paying for them at the time, and that action violated the statutes and administrative rules cited above.

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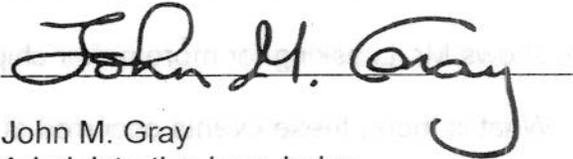
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From the foregoing Conclusions of Law, NOW THEREFORE,

INITIAL ORDER

IT IS ORDERED that Qiang Li's gambling license, no. 68-03743, is REVOKED.

DATED at Tacoma, Washington this 12 day of June 2013.



John M. Gray  
Administrative Law Judge  
Office of Administrative Hearings

NOTICE TO THE PARTIES

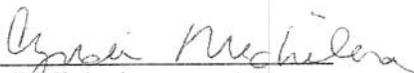
WAC 230-17-090:

- (1) RCW 34.05.464 governs the review of initial orders.
- (2) Any party to an adjudicative proceeding may file a petition for review of an initial order. Parties must file the petition for review with us within twenty days of the date of service of the initial order unless otherwise stated. Parties must serve copies of the petition to all other parties or their representative at the time the petition for review is filed.
- (3) Petitions must specify the portions of the initial order the parties disagree with and refer to the evidence in the record on which they rely to support their petition.
- (4) Any party to an adjudicative proceeding may file a reply to a petition for review of an initial order. Parties must file the reply with us within thirty days of the date of service of the petition and must serve copies of the reply to all other parties or their representatives at the time the reply is filed.
- (5) Any party may file a cross appeal. Parties must file cross appeals with us within ten days of the date the petition for review was filed with us.
- (6) Copies of the petition or the cross appeal must be served on all other parties or their representatives at the time the petition or appeal is filed.
- (7) After we receive the petition or appeal, the commissioners review it at a regularly scheduled commission meeting within one hundred twenty days and make a final order.

See also WAC 230-17-030 (methods of service) and WAC 230-17-035 (when service is complete).

### Certification of Mailing

I certify that I mailed true and correct copies of the **Initial Order Revoking Gambling License and Alternative Default Order** to the following parties, postage prepaid this 12 day of June 2013 at Tacoma, Washington.

  
Cyndi Michelena  
Legal Secretary

Qiang Li  
1409 123<sup>rd</sup> PI SE  
Everett, WA 98208-3820

Stephanie U. Happold  
c/o Kim O'Neal  
Senior Counsel  
Office of the Attorney General  
PO Box 40100  
Olympia, WA 98504-0100

Washington State Gambling Commission  
Communications and Legal Department  
PO Box 42400  
Olympia, WA 98504-2400