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STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE GAMBLING COMMISSION

GAMBLING COMMISSION
COMM & LEGAL DEPT

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

JORDAN MEDEIROS
Tacoma, Washington,

License No. 68-04930.

OAH No. 2012-GMB-0050
GC No. CR 2012-00678

INITIAL ORDER REVOKING
GAMBLING LICENSE

Administrative Law Judge John M. Gray conducted an administrative hearing in this matter on December 18, 2012, at the Gambling Commission Office, 4565 7th Avenue, Lacey, Washington.

Stephanie U. Happold, Assistant Attorney General, appeared and represented the Washington State Gambling Commission ("Commission"). Rick Schulte, Special Agent with the Commission, and Coma Soun, a surveillance observer employed by the Macau Casino, appeared as witnesses for the Commission.

Jordan Medeiros ("Mr. Medeiros"), the Licensee, appeared at the December 18, 2012, hearing. Mr. Medeiros had no other witnesses.

On September 19, 2012, the Director of the Commission caused two copies of a Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding ("Notice of Administrative Charges") to be issued against Mr. Medeiros, one by regular mail and the other by certified mail. The Director alleged that Mr. Medeiros took another player's casino

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chips at a mini-baccarat table in the Macau Casino on May 25, 2012, engaged in some betting with those chips, then cashed out those chips and kept the money.

Mr. Medeiros filed his Request for Administrative Hearing with the Commission on October 5, 2012, sixteen (16) days after service of the Notice of Administrative Charges.

The Commission issued the Notice of Hearing on November 7, 2012, to the Commission Staff and Attorney General's Office, the Office of Administrative Hearings, and to Mr. Medeiros, the latter to mailing address at 5034 S. L Street, Tacoma, WA 98408.

The Commission offered 11 exhibits, numbered 1 through 11, all of which were admitted without objection. Exhibit 8 consists of two video recordings (one CD-R and one DVD+R) and Exhibit 10 consists of one audio CD. Mr. Medeiros did not offer any exhibits.

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

FINDINGS OF FACT

1. The Commission issued a card room employee license to Mr. Medeiros. The license was a type 68, class B license. The license number was 68-04930. Without more, the license will expire on June 9, 2013.
2. The Macau Casino ("the Macau") in Lakewood, Washington employed Mr. Medeiros as a poker table dealer. He has worked in the industry since 1997 and has worked at the Macau for four years.
3. I take judicial notice that May 24, 2012, was a Thursday and May 25, 2012, was a Friday. All dates used in these Findings of Fact are 2012 unless otherwise noted.

4. Mr. Medeiros worked a shift at the Macau that ended on the night of May 24. After his shift ended, he did not return home but, instead, stayed at the Macau gambling, drinking, smoking, and enjoying the company of his friends.

5. The Macau operates four mini-Baccarat tables. The difference between mini-Baccarat and Baccarat is the size of the table and the number of the positions available for play. In mini-Baccarat, the table has nine marked "spots," numbered 1 through 3 and 5 through 10. There is no "spot 4;" "4" is considered to be bad luck.

6. The Macau also operates an overhead camera surveillance system. Through the surveillance system, other Macau employees may observe, either real-time or by watching a video, activity on the gambling floor, including the four mini-Baccarat tables.

7. The Macau hires employees to serve as "surveillance observers." These observers watch the dealers and the players, and others who may be on the gambling floor, for security reasons, including the possibility of theft. If an observer sees criminal activity, the observer notifies his or her supervisor and calls the police department. Surveillance observers receive no specialized training, but are trained in the operation of the video equipment and otherwise learn their skills in on-the-job training.

8. One of the Macau's surveillance observers is Coma Soun. Mr. Soun was on duty at the Macau on May 25 between 2 AM and 10 AM.

9. One of the players, a Mr. Tuan Nguyen, at mini-Baccarat table number 1 ("MB1"), seated near spot number 2 at that table, left to go elsewhere for reasons of his own, possible to go outside to smoke. He left \$78 in chips at his place near spot number 2.

10. It is a custom that players leave some chips at their spot if they leave the table for some reason, intending to return soon and to keep playing. The reason is to signal to anyone approaching the table in the player's absence that the spot is occupied and to go elsewhere.

11. While Mr. Nguyen was away from MB1, a man and a woman sat down at spots 1 and 3 and began to play. According to the date and time counter on the video provided by the Macau, at 3 AM, 23 minutes, 54 seconds, Mr. Medeiros approached the table at spot number 2 and took the chips into his hand. He remained at MB1 making several plays between 3 AM, 23 minutes, 54 seconds and 3 AM, 29 minutes, 27 seconds. Then he left MB1.

12. At 3:30 AM, Mr. Medeiros cashed in the chips at the casino cage. Mr. Medeiros had more than \$78 worth of chips on his person when he arrived at the cage. He received \$360. He paid in \$50 toward a gambling debt that he owes to the Macau.

13. At about 3:33 AM, Mr. Nguyen returned to the table and found that his chips were missing. He complained to the dealer at MB1 about his missing chips. His complaint made its way to Mark Higgins, the casino operations manager. He directed Coma Soun to review the video record showing mini-Baccarat table number 1 to watch Mr. Medeiros' actions.

14. Mr. Medeiros' review of the video record confirmed that Mr. Medeiros had taken Mr. Nguyen's chips, played them, pocketed them, and left the table.

15. Later in the day on May 25, 2012, Mr. Medeiros returned to the Macau. He paid \$78 to the Macau to reimburse Mr. Nguyen. The Macau reimbursed \$78 to Mr. Nguyen.

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.

3. The Commission has the broad purpose of protecting the public by insuring that those activities authorized by Ch. 9.46 RCW do not maliciously affect the public and do not breach the peace. RCW 9.46.010.

4. 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 by strict regulation and control. The Commission is required to closely control all factors incident to the activities authorized in Ch. 9.46 RCW, and the provisions of Ch. 9.46 RCW are to be liberally construed to achieve those ends. RCW 9.46.010.

5. The Commission bases its proposed revocation of Mr. Medeiros's gambling license on the provisions of RCW 9.46.075(1) and (8); RCW 9.46.153(1); and WAC 230-03-085(1) and (8).

6. RCW 9.46.075(1) provides that 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, including where the licensee "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[.]"

7. RCW 9.46.075(8) provides that the Commission may suspend or revoke any license or permit issued by it where the applicant or licensee "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]."

8. 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[.]"

9. WAC 230-03-085(1) provides that the Commission may suspend or revoke any license or permit when the licensee (1) commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075[.]

10. WAC 230-03-085(8) provides that the Commission may suspend or revoke any license or permit when the licensee (8) poses a threat to the effective regulation of gambling, or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by prior activities, criminal record, reputation, habits, or associations.

11. Each licensee has an affirmative responsibility to establish, by clear and convincing evidence, his continuing qualifications for licensure. RCW 9.46.153(1). Each holder of a license issued pursuant to Ch. 9.46 RCW is subject to continuous scrutiny regarding his general character, integrity, and ability to engage in, or associate with, gambling or related activities impacting this state. RCW 9.46.153(7).

12. Mr. Medeiros testified that he had been drinking in those early morning hours of May 25, 2012, and that drinking may have impaired his ability to make sound judgments. He also testified that he had been moving about the casino, playing at different tables, including mini-Baccarat table number 1. He further testified that a female gambler, also at mini-Baccarat table number 1, Trinh Bui, allegedly told him that the chips at spot 1 belonged to him, Mr. Medeiros.

13. The nature of Ms. Bui's testimony requires some evaluation. 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(1). Therefore, hearsay is given only limited weight in meeting the preponderance of the

evidence standard. A party cannot meet its burden of proof by relying solely on hearsay evidence. In other words, Ms. Bui's alleged statement is hearsay because Ms. Bui was not present to testify at the December 18 hearing. She was not available to testify, under oath, that she told Mr. Medeiros that the chips were his, and was not available to be cross-examined whether she made the statement at all or why she made the statement at all (the Commission's case report, Exhibit 1, suggests that Ms. Bui herself appropriated another player's chips). I conclude that Ms. Bui's alleged statement is hearsay because Mr. Medeiros offered her statement to prove that he believed she told him the truth; i.e., to prove the truth of the matter asserted. Even though RCW 34.05.452(1) provides that "[e]vidence, including hearsay evidence, is admissible if in the judgment of the presiding officer it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs[,]" Ms. Bui's alleged statement remains untested and is not reliable evidence. Consequently, I did not find her statement to be a fact in this case.

14. Mr. Medeiros's testimony that he made a good faith mistake when he took Mr. Nguyen's chips because he was drunk is not clear and convincing evidence that he is qualified to retain his gambling license. On the contrary, his testimony helps prove the Commission's case for revocation and that he poses a risk to the effective regulation of gambling.

15. The Commission's evidence shows that Mr. Medeiros took \$78 in chips that were not his and appropriated them for his benefit. The chips belonged to Mr. Nguyen. I conclude that the Commission has met its burden of proving by a preponderance of the

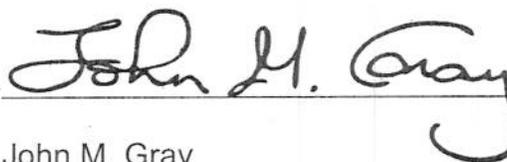
evidence that Mr. Medeiros' gambling license should be revoked under RCW 9.46.075(1) and (8) and WAC 230-03-085(1) and (8).

From the foregoing conclusions of law, NOW THEREFORE,

INITIAL ORDER

IT IS ORDERED That Mr. Medeiros's card room employee license, No. 68-04930 is **REVOKED**.

DATED at Olympia, Washington, this 14 day of February, 2013.



John M. Gray
Administrative Law Judge
Office of Administrative Hearings

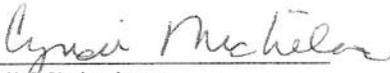
NOTICE TO THE PARTIES

Initial orders must be entered in accordance with RCW 34.05.461(3). WAC 230-17-085(1). An initial order becomes the final order unless a party files a petition for review of the initial order as explained in WAC 230-17-090. WAC 230-17-085(2).RCW 34.05.464 governs the review of initial orders. WAC 230-17-090(1).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 representatives at the time the petition for review is filed. WAC 230-17-090(2).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. WAC 230-17-090(3).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. WAC 230-17-090(4).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. WAC 230-17-090(5).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. WAC 230-17-090(6). 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. WAC 230-17-090(7).

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 14 day of February 2013 at Tacoma, Washington.



Cyndi Michelena
Legal Secretary

Mr. Jordan Medeiros
5034 South L Street, Unit A
Tacoma, WA 98408

Stephanie U. Happold
Assistant Attorney General
Office of the Attorney General
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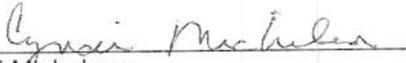
Washington State Gambling
Commission
Communications and Legal Department
PO Box 42400
Olympia, WA 98504-2400

Certificate of Service – OAH Docket No. 2012-GMB-0050

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

Jordan L. Medeiros 5034 South L Street Tacoma WA 98408	<input checked="" type="checkbox"/> First Class US mail, postage prepaid <input type="checkbox"/> Certified mail, return receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> 1st Class, postage prepaid, Certified mail, return receipt
Stephanie U. Happold Assistant Attorney General Office of the Attorney General PO Box 40100 Olympia WA 98504-0100	<input checked="" type="checkbox"/> First Class US mail, postage prepaid <input type="checkbox"/> Certified mail, return receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> 1st Class, postage prepaid, Certified mail, return receipt
Washington State Gambling Commission ATTN: Legal Department PO Box 42400 Olympia WA 98504	<input checked="" type="checkbox"/> First Class US mail, postage prepaid <input type="checkbox"/> Certified mail, return receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> 1st Class, postage prepaid, Certified mail, return receipt

Date: February 14, 2013



Cyndi Michelena
Office of Administrative Hearings

