

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the License to)
Conduct Gambling Activities of:)
)
Lan N. Nguyen)
Lynnwood, Washington,)
)
Licensee.)

NO. CR 2012-00562

**NOTICE OF ADMINISTRATIVE
CHARGES AND OPPROTUNITY
FOR AN ADJUDICATIVE
PROCEEDING**

I.

The Washington State Gambling Commission issued Lan N. Nguyen license number 68-30773, authorizing Card Room Employee activity at Goldie's Casino, Shoreline.

The Commission issued this license, which expires on September 7, 2012, subject to the licensee's compliance with state gambling laws and Commission rules.

II.

David 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 April 9, 2012, Lan N. Nguyen, a licensed card room employee (CRE) at Goldie's Casino in Shoreline, stole another CRE's cell phone. The theft was recorded on surveillance video. During an interview with a Commission agent, Ms. Nguyen denied taking the iPhone 4, but admitted paying the victim \$500 for the phone.

FACTS:

(1) On April 17, 2012, Tim N. Turner, a surveillance manager at Goldie's Casino, e-mailed a Washington State Gambling Commission Special Agent (agent) to report the theft of an employee's cell from the employee break room at Goldie's Casino in Shoreline.

(2) On April 23, 2012, an agent contacted Yen Nguyen, CRE, about the theft. Ms. Y. Nguyen said her cell phone was stolen on April 9, 2012, and that she reported the theft to shift manager Richard Grimes. Ms. Y. Nguyen said the cell phone was an iPhone 4 and cost \$550 when she bought it about a year and a half ago. After talking to Ms. Y. Nguyen, the agent asked her to give a statement of the incident. The agent also interviewed Mr. Grimes, Mr. Turner, and Gary Malcom, general manager. After their interviews, the agent asked each of them to provide a written statement.

(3) On April 27, 2012, the agent received Ms. Y. Nguyen's statement, which said that after talking on her cell phone, she left the phone on the table in the employee break room. Later, when Ms. Y. Nguyen returned to the break room, she found her cell phone missing. Ms. Y. Nguyen informed Mr. Grimes of the theft. Mr. Grimes reviewed the surveillance coverage of the break room and determined Lan Nguyen¹ had taken the phone. Ms. Lan Nguyen paid \$500 to Ms. Y. Nguyen for the iPhone 4 cell phone and asked her not to report this to the police.

(4) On April 28, 2012, the agent received Mr. Grimes' statement, summarized as follows:

- Around 04:00 on April 9, 2012, Ms. Y. Nguyen told him her cell phone was missing, and that she had left it on the table in the break room.
- Mr. Grimes reviewed the surveillance recording. He noted that when Ms. Y. Nguyen left the break room around 00:27, the cell phone was visible on the table.
- Mr. Grimes noted that Ms. Lan Nguyen entered the break room around 01:33 and sat down where Ms. Y. Nguyen placed her cell phone. Ms. Lan Nguyen moved things around on the table and picked up the cell phone.
- Around 01:35, Ms. Lan Nguyen moved the cell phone next to a drink then slid it next to the wall, as if to move it out of view of the camera.
- Around 01:43, Mr. Grimes opened the break room door and asked the dealers to come out and sort cards. Ms. Lan Nguyen stayed in the break room alone. She switched her cell phone from her right to her left hand, reached for Ms. Y. Nguyen's phone on the table, brought both phones to her chest, moved sideways with her back to the camera, and put both phones in her locker.
- Around 02:18 to 02:27, Ms. Y. Nguyen returned to the break room, but didn't realize her phone was missing. Around 04:08, Ms. Y. Nguyen realized her phone was missing, and she alerted Mr. Grimes. Mr. Grimes informed Mr. Malcolm what happened.
- Mr. Grimes asked two surveillance observers to review the recording. Mr. Grimes said the results were the same: Ms. Lan Nguyen took Ms. Y. Nguyen's cell phone.
- Mr. Grimes said he called Mr. Malcolm to inform him that he was taking Ms. Lan Nguyen off the gaming table and offering her a chance to return the phone in case it was an accident. With security manager Court Ruis present, Mr. Grimes asked Ms. Nguyen to the office to explain what happened. Ms. Nguyen was given the opportunity to return the phone, but she denied taking it. Mr. Grimes suspended Ms. Nguyen pending further investigation by Mr. Malcolm.

(5) On April 28, 2012, the agent received a statement from Tim Turner, surveillance manager, which is summarized as follows:

- On April 9, 2012, Mr. Grimes requested a review of the employee break room to locate Ms. Y. Nguyen's phone. Ms. Y. Nguyen told Mr. Grimes she last used the phone there but was unable to locate it now. Mr. Turner said the initial review was inconclusive.
- Mr. Turner said Mr. Grimes requested that a second surveillance observer, Douglas Hallmark, conduct a review. Mr. Hallmark observed Ms. Lan Nguyen pick up the cell phone and appear to hide it. When Ms. Nguyen was alone, she walked over to her locker. Mr.

¹ Yen Nguyen and Lan Nguyen are not related.

Turner said he reviewed the break room surveillance tape again. He noted in his Surveillance Incident Report narrative that Ms. Lan Nguyen moved the cell phone out of view. When the break room was empty, she went to her locker to put her cell phone away. Mr. Turner said that from 00:15 to 04:08, only two people sat at the table end, Ms. Y. Nguyen and Ms. Lan Nguyen.

(6) The agent reviewed the video tape for April 9, 2012, and noted the following events occurred in the employee break room at the approximate times listed:

00:15 – 00:27 Ms. Y. Nguyen was on the cell phone, then placed the phone on a newspaper, and later left the break room.

01:33 – Ms. Lan Nguyen entered the break room, took out her cell phone from her locker, and at approximately 01:34:48, sat down in the same chair where Ms. Y. Nguyen previously sat. Ms. Lan Nguyen tidied up the table.

01:35 – Ms. Lan Nguyen picked up Ms. Y. Nguyen's phone, looked at it, and put it back on the newspaper.

01:36 – Ms. Lan Nguyen picked up Ms. Y. Nguyen's phone with her left hand and moved it directly in front of her out of view of the camera.

01:36:15 – Ms. Lan Nguyen looked over her left shoulder to toward the camera. She remained in that chair as all the other employees left the room.

01:42 – The other employees left the break room. Ms. Lan Nguyen appeared to be the only employee in the break room.

01:43 – The break room door opened and Mr. Grimes called the dealers, including Ms. Nguyen, back to work.

01:43:14 – Ms. Lan Nguyen had been sitting in the chair diagonally (at about 45 degrees) to the end of the table with her feet near the walkway in the middle of the room. Ms. Nguyen adjusted her position in the chair, faced directly to the table, and placed her back toward the camera, as if to block the camera's view of the table area directly in front of her. Again, the cell phone remained out of view of the camera.

01:43:18 – Ms. Lan Nguyen's right hand moved on top of the table.

01:43:22 – Ms. Lan Nguyen rose up out of the chair and kept her back to the camera. Furtively, in a crab-like manner, she walked sideways, swinging her right leg past her left leg until she cleared the end of the table. It appeared she intended to keep her back to the camera, which she did. At no time was her right hand visible. The cell phone was no longer on the table.

01:43:28 – Ms. Lan Nguyen walked directly to her locker, opened it, placed something in it, and closed it.

01:43:40 – Ms. Lan Nguyen left the break room.

02:18 – Ms. Y. Nguyen returned to the break room, and sat in the same chair.

02:27 – Ms. Y. Nguyen left the break room. (She did not use her cell phone during this time period.)

03:33 – Ms. Lan Nguyen returned to the break room and went directly to her locker. She checked an electronic device in her locker that had a glow to it, similar to the glow a cell phone would create when turned on.

03:34 – Ms. Lan Nguyen returned to the same chair she sat in the prior break, the same chair occupied by Ms. Y. Nguyen. Again, Ms. Lan Nguyen sat in the chair diagonally (at about 45 degrees) to the end of the table, with her feet near the walkway in the middle of the break room.

03:55 – Ms. Lan Nguyen got up from the table. Unlike the last time, she did not adjust her position and face the table first or walk in a crab-like manner to clear the end of the table. She simply got up from the chair and walked away in a normal manner.

03:56 – Ms. Lan Nguyen returned to her locker, checked an electronic device in her locker.

03:58 – Ms. Lan Nguyen exited the break room.

04:08 – Ms. Y. Nguyen returned to the break room and began to check her purse and table for the cell phone.

04:11 – Ms. Y. Nguyen exited the break room and notified Mr. Grimes of the missing cell phone.

There were many people in and out of the break room between midnight and 4:00 a.m., but only Ms. Y. Nguyen and Ms. Lan Nguyen sat in the chair at the end of the table.

(7) On May 3, 2012, the agent received a statement from Gary Malcolm, general manager. Mr. Malcolm said that Mr. Grimes informed him on April 10, 2012, of the cell phone theft by Ms. Lan Nguyen. Mr. Malcolm said he asked Mr. Turner to do a complete review of the incident. After Mr. Turner's investigation and review, Mr. Malcolm was certain that Ms. Lan Nguyen had stolen the cell phone. Mr. Malcolm interviewed Ms. Lan Nguyen, and she denied taking the cell phone. She told Mr. Malcolm that she gave \$500 cash to Ms. Y. Nguyen because she "felt bad" for her.

(8) On May 7, 2012, the agent invited Ms. Lan Nguyen to come to the Washington State Gambling Commission Everett field office to explain what happened.

- The agent interviewed Ms. Nguyen on May 9, 2012. The agent told Ms. Nguyen that she was there voluntarily, the door was opened, and she could leave at any time. The agent read the Warning and Waiver of Constitutional Rights to her.

- Ms. Nguyen signed that she understood her rights and was willing to talk to the agent. She knew she was asked to come in because of the cell phone incident at Goldie's Casino.
- Ms. Nguyen said the cell phone looked like a friend's cell phone. She picked it up, but returned the cell phone later. The agent told her that the people who reviewed the surveillance tape saw her take the cell phone and place it in her locker.
- Ms. Nguyen continued to deny taking the cell phone. She told the agent she felt sorry for the victim and gave her the money. The agent asked her to tell the truth and to write a statement, but she declined.

VIOLATIONS:

1) RCW 9.46.075 Denial, suspension, or revocation of license, application, or permit

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 certified employee, 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) Fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this chapter.

(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;

2) WAC 230-03-085 Denying, suspending, or revoking an application, license or permit

We may deny, suspend, or revoke any application, license or permit, when the applicant, certified employee, or anyone holding a substantial interest in the applicant's or certified employee's business or organization:

(The following subsections apply.)

(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: (a) Prior activities;

3) RCW 9.46.153(1) Applicants and licensees - responsibilities and duties

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.

By taking a cell phone, Lan Nguyen has demonstrated that she poses a threat to the effective regulation of gambling or increases the likelihood of unfair or illegal practices. Ms. Nguyen has failed to establish clearly and convincingly that she is qualified to be licensed, as required by RCW 9.46.153(1). As a result, grounds exist to revoke Lan Nguyen's license based on RCW 9.46.075(1), and (10), and WAC 230-03-085(1) and (8).

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 a request for hearing will result in the entry of a default order REVOKING your license.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

David 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.

David Trujillo

DAVID TRUJILLO, DEPUTY DIRECTOR

SUBSCRIBED AND SWORN TO before me
this 31 day of August, 2012.

Maureen Pretell

NOTARY PUBLIC in and for the State of
Washington residing at Thurston County
My commission expires on December 2, 2015



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 her attorney or authorized agent.

Dated at Olympia, Washington this 31 day of August, 2012

Maureen Pretell

Communications and Legal Department
Washington State Gambling Commission