

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the)
License to Operate Gambling Activities of:)
Ngoc M. Nguyen)
Lynnwood, Washington,)
Licensee.)
_____)

NO. CR 2012-00333

**NOTICE OF ADMINISTRATIVE
CHARGES, AND OPPORTUNITY FOR
AN ADMINISTRATIVE HEARING**

I.

The Washington State Gambling Commission issued Ngoc M. Nguyen license number 68-25987, authorizing Card Room Employee activity with Great American Casino in Tukwila.

The Commission issued this license, which expires on November 15, 2012, subject to the licensee's compliance with state gambling laws and Commission rules.

II.

Rick Day, 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:

While playing as a customer at the Red Dragon Casino in Mountlake Terrace on January 6, 2012, Ngoc M. Nguyen, a card room employee, switched her wager in Emperor's Challenge Pai Gow (ECPG) from the flat-rate main bet to the bonus wager after the cards had been dealt. The cheating incident was recorded by surveillance cameras.

FACTS:

1) On January 09, 2012, a Commission Special Agent (agent) received a voicemail from Scott Hildebrandt, the General Manager (GM) of the Red Dragon Casino in Mountlake Terrace. He stated he had surveillance footage and an incident report of a cheating incident that occurred on January 6, 2012 at the Red Dragon. The agent went to Red Dragon and picked up an incident report and a DVD copy of the recorded surveillance.

2) On January 13, 2012, the agent reviewed Red Dragon's surveillance footage of the January 6, 2012, ECPG cheating incident involving Ms. Nguyen. The agent noted the following:

18:44:04 – The female player in spot 2¹ placed a single red \$5 chip on the flat-rate main bet wager area as her wager for the next hand.² This player in spot 2 was identified by casino personnel as Ms. Nguyen.

18:44:50 – Dealer Crystal Chen dealt the first hand of the round to the player in spot 3, the spot to Ms. Nguyen's immediate right.

18:45:00 – Ms. Chen dealt Ms. Nguyen her cards.

18:45:01 – Ms. Nguyen picked up her cards and began arranging her high and low hands.³

18:45:07 – Ms. Nguyen dropped her two-card low hand onto the low hand setting area with her right hand, and placed her five-card high hand on the high hand setting area with her left hand.

18:45:08 – With her left hand, Ms. Nguyen put her fingers on the top of her two low cards, slid the cards a little to the left, and then back to the right. As she slid the cards to the right, she pushed her red \$5 chip on the flat-rate main wager with the corner of her cards and slid the chip onto the Treasure Bonus wager area.⁴ On a full house (3-of-a-kind along with 2-of-a-kind) this wager would pay 5 to 1 odds (or \$25), compared to the flat-rate wager that would have only paid 1 to 1 (\$5). Ms. Nguyen did not touch her cards again after moving her chip from the flat-rate main wager to the Treasure Bonus wager.

18:45:37 – Ms. Chen turned over and spread out the dealer's seven cards and set them into a low and high hand.

18:45:53 – Ms. Chen turned over Ms. Nguyen's hands.

18:45:57 – Ms. Chen noticed Ms. Nguyen's chip had been moved, pointed to the chip on the Treasure Bonus wager, and then moved it back to the flat-rate main wager area.

18:45:59 – Ms. Nguyen pointed to the Treasure Bonus wager area and put her hands up in the air in a questioning shrug. Ms. Chen picked up a single red \$5 chip from the chip tray to properly pay even money on Ms. Nguyen's wager as a flat-rate main wager.

¹ There are six player positions at an ECPG table. The player at the dealer's extreme right is a player spot #1. The player's numbered positions increase from right to left around the table ending with play spot #6 at the dealer's extreme left.

² In ECPG, the players and the dealer each receive seven cards. Before the player receives his/her cards, the player must place a wager(s). The player has the option of placing one or two wagers. The first wager is the flat-rate main bet. The wager is mandatory and the player is betting that his/her cards will be higher ranked poker hands than the dealer's.

³ After the player receives his/her cards, the player then sets his/her cards into two hands, the "high" hand, consisting of five cards, and the "low" hand, consisting of two cards. When the player is done setting his/her hand, he/she places them in two separate piles face down. After all the players at the table have done this, the dealer then exposes the dealer's cards and sets them into the "high" and "low" hands.

⁴ The second bet is optional and is a "Treasure Bonus" bet. If the player places a bonus bet he/she is betting that of the seven cards received, he/she will be able to create one of several qualifying predetermined five-card poker hands. If the player has made a Treasure Bonus bet, it is paid odds depending on the hand.

18:46:24- Shift manager Jim Becker approached the table from behind Ms. Chen's right shoulder. Ms. Chen pointed to the wager, and Ms. Nguyen again put her hands up in a questioning, argumentative manner. Ms. Chen continued to settle the rest of the bets on the table.

18:47:49 – Mr. Becker came back to the table, pointed to Ms. Nguyen's bet and cards (the ones remaining on the table), and then Ms. Chen paid even (\$5) on Ms. Nguyen's hand. Ms. Nguyen was not paid the Treasure rate for her wager, but was only paid the flat-rate wager, which she had originally made before she cheated by moving her bet.

3) On January 26, 2012, the agent went to Red Dragon Casino and picked up a DVD of an additional camera view of the recorded surveillance footage from the cheating incident. The agent noted the following:

18:45:08 – Ms. Nguyen set her hands down on the table, then reached back out and put her left hand on her two-card low hand. Then using the cards, she clearly and purposefully pushed her \$5 wagered chip from the flat-rate main wager area to the bonus wager area.

4) On January 13, 2012, the agent went to Red Dragon Casino and spoke with Ms. Chen, who was dealing at the time. Ms. Chen provided a written statement regarding the incident. After struggling to write the first sentence of her statement, Ms. Chen asked the agent to write for her while she gave her statement. Ms. Chen said English is not her first language, and she has difficulty writing in English. The following is a summary of her written statement:

- Ms. Chen said she recognized the woman who was playing in spot 2 wearing a red coat. She said the woman plays cards at Red Dragon once or twice a week. Ms. Chen said this woman almost never makes a bonus bet, but instead just places bets on the flat-rate wager.
- Ms. Chen remembered that after she looked at Ms. Nguyen's cards, she saw Ms. Nguyen had a full house. She also noticed that there was a five-dollar bonus bet but no flat-rate main wager. Ms. Chen asked Ms. Nguyen if she had made a flat-rate bet or a bonus bet. Ms. Nguyen told her she made a bonus bet. Ms. Nguyen said she was "all in," meaning it was her last five dollars.
- Ms. Chen said she still did not think Ms. Nguyen had made the bonus bet originally, so she called over the Shift Manager, Jim Becker. Ms. Chen said the casino personnel then told her that Ms. Nguyen had in fact bet on the flat-rate main wager and not the bonus, and that she had moved her chip from the flat-rate main bet to the bonus bet with her cards after she had looked at her hands. Ms. Chen did not pay Ms. Nguyen for the bonus bet.

5) On February 13, 2012, Ms. Nguyen came in to the Washington State Gambling Commission office in Everett for a voluntary interview. A Special Agent Supervisor was also present during the interview. Because Ms. Nguyen does not speak English very well, a Vietnamese interpreter from Language Line translated via telephone. Ms. Nguyen was informed at the beginning of the interview that she was free to leave at any time and did not have to speak to us if she did not want to. Ms. Nguyen said she understood. The following is a summary of the interview:

- Ms. Nguyen said she has been a licensed card room employee since about December 2007. She has worked at six different card rooms in Washington, including Great American Casino in Tukwila where she currently works.
- She said she knows the rules to the game ECPG. She said she also knows that a person cannot move a wager after seeing the cards. While Ms. Nguyen admitted to placing her \$5 bet on the flat-rate main wager on the incident in question, she claimed she does not know how the bet was moved to the bonus wager.
- Ms. Nguyen said she felt like she was framed and that the dealer had some sort of animosity toward her. She claims she never told the dealer that she bet on the bonus bet because she was “all-in;” she said she bet on the flat-rate main bet.

6) Ms. Nguyen’s player tracking card shows she has considerable experience playing ECPG. Ms. Nguyen had played at least thirty-nine (39) separate gaming sessions of ECPG at the Red Dragon Casino. During those sessions, Ms. Nguyen logged in at least sixty-seven (67) hours playing ECPG.

7) Ms. Nguyen has been a licensed card room dealer since 2007; she is currently employed as a dealer at Great American Casino in Tukwila. Ms. Nguyen has no administrative history. On June 20, 2012, she was charged with Cheating in the Second Degree in Snohomish County District Court.

8) Ms. Nguyen switched her wagers in Emperor’s Challenge Pai Gow from the flat rate main bet to the bonus wager after the cards had been dealt, in violation of RCW 9.46.1961. Based on her actions, Ms. Nguyen poses a threat to the effective regulation of gaming and enhances the chance of unfair illegal practices. She also has failed to establish by clear and convincing evidence the necessary qualifications for certification under RCW 9.46.153(1).

Therefore under RCW 9.46.075(1), (8), (9), and (10), and WAC 230-03-085(1) and (8), grounds exist to revoke Ngoc M. Nguyen’s license.

VIOLATIONS:

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

(9) Is subject to current prosecution or pending charges, or a conviction, which is under appeal, for any of the offenses included under subsection (4)⁵ of this section: PROVIDED, That at the request of an applicant for an original license, the commission may defer decision upon the application during the pendency of such prosecution or appeal.

(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 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.

RCW 9.46.1961 Cheating in the First Degree

(1) A person is guilty of cheating in the first degree if he or she engages in cheating⁶ and:

- (a) Knowingly causes, aids, abets, or conspires with another to engage in cheating; or
- (b) Holds a license or similar permit issued by the State of Washington to conduct, manage, or act as an employee in an authorized gambling activity.

(2) Cheating in the first degree is a class C felony subject to the penalty set forth in RCW 9A.20.021. In addition to any other penalties imposed by law for a conviction of a violation of this section, the court may impose an additional penalty of up to twenty thousand dollars.

⁵ **RCW 9.46.075(4)** 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: (4) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude.

⁶ **RCW 9.46.196 Cheating Defined** - (1) Employ or attempt to employ any device, scheme, or artifice to defraud any other participant or any operator; (2) Engage in any act, practice, or course of operation as would operate as a fraud or deceit upon any other participant or any operator; (3) Engage in any act, practice, or course of operation while participating in a gambling activity with the intent of cheating any other participant or the operator to gain an advantage in the game over the other participant or operator; or (4) Cause, aid, abet, or conspire with another person to cause any other person to violate subsections (1) through (3) of this section.

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.

The licensee's pending criminal charges demonstrate that the licensee poses 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.

Ms. Nguyen has failed to establish clearly and convincingly that she is qualified for licensure, as required by RCW 9.46.153(1). As a result, there are grounds to revoke Ngoc M. Nguyen's license based on RCW 9.46.075(1), (8), (9), and (10) and WAC 230-03-085(1) and (8).

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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.

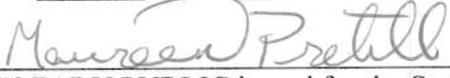
Based on RCW 34.05.440, failure to return a request for hearing will result in the entry of a default order REVOKING your license.

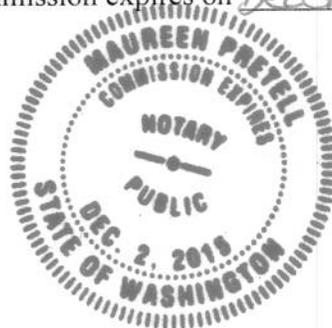
STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

Rick Day, 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 Director of the Washington State Gambling Commission, and in that capacity has executed said Notice.


RICK DAY, DIRECTOR

SUBSCRIBED AND SWORN TO before me
this 22 day of June, 2012.


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 his or her attorney or authorized agent.

Dated at Olympia, Washington this 25 day of June, 2012


Communications and Legal Department
Washington State Gambling Commission