

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

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

**WILLIAM R. SHEPARD,**  
Spanaway Washington  
License No. 68-14084

Licensee.

**OAH Docket No. 2013-GMB-0007**

**WSGC No. CR 2012-01044**

**\*\*AMENDED\*\* INITIAL ORDER**

**\*\*AMENDED ONLY TO RESEND ORDER WITH SIGNATURE OF ALJ HAAKE\*\***

**1.           HEARING:**

1.1     This case came before Administrative Law Judge Douglas H. Haake for an administrative hearing on April 15, 2013, at the Washington State Gambling Commission Hearing Room in Lacey, Washington, after due and proper notice to all parties. The hearing was digitally recorded.

1.2     William R. Shepard, Licensee appeared.

1.3     The Washington State Gambling Commission (Commission) appeared through legal counsel, Stephanie U. Happold, Assistant Attorney General.

1.4     Richard Schulte, Special Agent, appeared and testified on behalf of the Commission.

1.5     The Commission presented 7 exhibits, all of which were admitted

**2.           STATEMENT OF THE ISSUES:**

2.1     Whether the Commission correctly determined to revoke Mr. Shepard's card room employee license

**3.           FINDINGS OF FACT:**

3.1     At all relevant times, Mr. Shepard held a card room employee license, license number 68-14084.

3.2     Special Agent Schulte has been employed by the Commission for 12 years as a special agent. He has a Bachelors Degree in Business Administration and an MBA.

He has prior law enforcement experience as a Captain with Air Force security and as a City of Olympia police officer. Special Agent Richard Schulte testimony.

3.3 Special Agent Schulte has attended the Air Force and Washington law enforcement academies and is a certified fraud examiner. *Id.*

3.4 Special Agent Schulte's duties include audit and investigation of legal and illegal gambling activities within his assigned region of Washington State. *Id.* The Macau Casino, where Mr. Shepard works, is within Special Agent Schulte's assigned region. *Id.*

3.5 On August 10, 2012, a customer's chips were removed from her spot while she was away from Mini-Baccarat table 4, at the Macau Casino in Lakewood. *Id.* The chips included a match play coupon, which is a form of casino cash. *Id.* The Floor Supervisor, Savy Tiv contacted surveillance with a request to review the surveillance video to determine who took the customer's chips. *Id.* Surveillance reported to Mark Higgins that Mr. Shepard was observed on the video taking the customer's chips. *Id.*; Exhibit 1

3.6 On August 10, 2012, Special Agent Schulte received an email from Mark Higgins, the Macao Casino Operations Manager, concerning Mr. Shepard's involvement in an incident at the Macao Casino. Exhibit 1; Special Agent Richard Schulte testimony.

3.7 On August 13, 2012, Special Agent Schulte visited the Macao Casino, where he met with surveillance observer Koma Soun, who provided Special Agent Schulte with videos of the incident copied from the casino's video surveillance system. *Id.* Special Agent Schulte also received copies of Cash Paid In/Paid Out forms from Mark Higgins. *Id.* Special Agent Schulte transported the evidence from the casino to the Commission's Tacoma evidence locker. *Id.*

3.8 Special Agent Schulte made copies of the DVD received from the Macao Casino. The surveillance video shows perspectives of table 4 from different cameras. *Id.*; Exhibit 7. One perspective is a close up of the table. The other is from a longer range and includes the table's rail. The rail is the raised outside portion of the table on which customers lean while playing. Player locations at the table are numbered, with no spot four, which denotes bad luck in some Asian cultures. *Id.*

3.9 The game of Baccarat allows three options for placing bets. Players can bet on the player, the dealer, or on a tie. Which ever is closer to 9 wins the hand. Special Agent Schulte testimony.

3.10 The video shows Ms. Le, the victim at position five. She placed a bet using a match play coupon on the banker. Exhibit 7. She won the hand, after which she pulled her chips back to the rail then walked away from the table at approximately 12:04 a.m. *Id.*

3.11 At 12:05 a.m., Mr. Shepard is seen walking up to spot 5 at the table with cash in hand. *Id.* Casino management can allow play by another bettor at a reserved spot. Special Agent Schulte testimony. Mr. Shepard was not working as is evidenced by his not being in uniform. *Id.* Mr. Shepard gives some cash to the dealer to buy approximately \$110 in chips in the game and makes a bet by placing his just purchased chips, along with a Match Play Coupon that he removed from his pocket on the banker's spot. *Id.* at 12:06 a.m., before his bet is played, Mr. Shepard is shown to pick up Ms. Le's chips and move them to the spot three / spot five line. *Id.* He is then observed picking up Ms. Le's chips with his left hand and counting the chips. At 12:06 a.m. Mr. Shepard places a token bet, or dealer tip on the dealer's spot. *Id.* Ms. Le returns to the table and asks about her chips, pointing at spot 5. *Id.* At 12:08 a.m., the dealer announces that Mr. Shepard's bet loses and Mr. Shepard walks away from the table at 12:08:15 a.m. with Ms. Le's chips in his hand.

3.12 The Surveillance Observer prepared an observation report. Exhibit 3. The Surveillance Observer reported what he observed to the Operations Manager, who also reviewed the video. *Id.* After reviewing the video, Mark Higgins, the Operations Manager arranged a "pay out" on receipt number 24921 to Ms. Le for the lost chips, and a "pay in" for Mr. Shepard on receipt number 24922 in the amounts of \$95. Exhibit 4.

3.13 Special Agent Schulte requested statements from the dealer and floor supervisor. Special Agent Schulte testimony. The dealer prepared a statement indicating that he had been informed that Mr. Shepard took Ms. Le's chips but had not observed the incident. Exhibit 5. The floor supervisor prepared a report describing what Ms. Le had told him, and what he did with that information. Exhibit 6.

3.14 Special Agent Schulte also requested an interview with Mr. Shepard. The interview occurred on September 27, 2012, at the Commission's Tacoma Field Office. Special Agent Schulte testimony. Special Agent Schulte told Mr. Shepard that he was free to leave and advised him of his rights. *Id.* Mr. Shepard gave a statement, which was recorded. *Id.* After the interview, the original recording was placed in the Tacoma evidence locker by Special Agent Schulte. *Id.*

3.15 Mr. Shepard said that he did not recall the incident and did not realize he had Ms. Le's chips in his hand when he left the table. Special Agent Schulte testimony; Exhibit 7. He did not talk with Ms. Le or return her chips until after the Casino called and requested that he return to the Casino. *Id.*

3.16 Mr. Shepard has no prior record of investigation or charges. Special Agent Schulte testimony. Operations Manager, Mark Higgins told Special Agent Schulte that Mr. Shepard had been a good employee since he was hired. Exhibit 1, page 5. Mr. Shepard's co-workers and Casino security personnel describe Mr. Shepard's actions as "inadvertent" or "negligent" in their reports. Exhibits 3 and 5. While I considered the observers characterizations of Mr. Shepard and his actions, I do not find

them to be overly persuasive. That Mr. Shepard was apparently a valued employee, may well have colored their interpretations of events. I note that Mr. Higgins reported the events to the Commission, which suggests that he understood Mr. Shepard's actions could be found to violate Commission rules.

3.17 Mr. Shepard has worked for 15 years in an environment that requires he handle large sums of money and he would not do anything to jeopardize his livelihood. William Shepard testimony. He noted that Special Agent Schulte's interview occurred more than one month after the incident. *Id.* He was off duty, and playing a number of tables. When at table 4, he was with friends to whom he was talking while he played. *Id.* He did not realize that he had picked up another player's chips and repaid for them as soon as he was made aware. *Id.* I find Mr. Shepard's statements to be self-serving and not logically consistent with his training and experience in handling other people's money.

#### 4. CONCLUSIONS OF LAW:

##### *Jurisdiction*

4.1 Office of Administrative Hearings has jurisdiction over the person and subject matter herein pursuant to RCW 9.46.140, Chapter 34.05 RCW, and Title 230.

##### *Burden Of Proof*

4.2 Licensees bear the burden of establishing their qualifications by clear and convincing evidence. RCW 9.46.153(1). Each applicant and holder of a license issued pursuant to Chapter 9.46 RCW is subject to continuous scrutiny regarding his/her general character, integrity, and ability to engage in or participate in, or associate with, gambling or related activities impacting this state. RCW 9.46.153.

##### *Legislative Intent*

4.3 The legislative intent expressed in RCW 9.46.010 provides in relevant part: "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 statute further provides: "All factors incident to the activities authorized in this chapter shall be closely controlled, and the provisions of this chapter shall be liberally construed to achieve such end." In short, those persons who wish to work in this highly regulated industry are held to the very highest character and integrity standards.

##### *License Suspension and Revocation*

4.4 RCW 9.46.075(1) and WAC 230-03-085(1) provide that the Commission may revoke a license for any reason which it finds is in the public interest. Grounds for revocation include, but are no limited to that the licensee:

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; RCW 9.46.075(10)

4.5 WAC 230-03-085 provides that the Commission may suspend a gambling license when the license holder has demonstrated willful disregard of federal, state or local laws, administrative rules, and the lawful orders of administrative bodies and courts with jurisdiction to enforce such laws and rules. WAC 230-03-085(8)(a) provides in pertinent part that the Commission can revoke a license where the licensee:

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...

4.6 The Commission is also authorized under RCW 9.46.075(8) and RCW 9.46.153(1) to revoke a license where the Licensee has failed to prove by clear, cogent and convincing evidence that the Licensee is qualified to hold a gambling license in accordance with the laws and regulations governing gambling.

#### *Analysis*

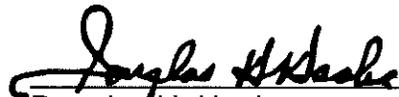
4.7 Here, Mr. Shepard is an experienced card room worker who handles large sums of money in his employment. His suggestion that taking the money in this situation was an unknowing and inadvertent event does not jibe with his experience handling money. Mr. Shepard placed a bet. While awaiting the outcome, he picked up someone else's chips from the table and counted them. He continued to hold the chips while awaiting the outcome of his bet. When the Dealer announced that Mr. Shepard's bet was a loser, Mr. Shepard walked away from the table with the chips in his hand. I conclude that Mr. Shepard was aware of his actions and as such pursued economic gain in a manner that violates public policy. His actions pose a threat to the effective regulation of gambling by violating state law and Commission rules. He has not shown that he is qualified to hold a gambling license. His Card Room Employee license is therefore revoked.

5. **INITIAL ORDER:**

IT IS HEREBY ORDERED,

Pursuant to law and public interest, Mr. Shepard's Card Room Employee's license, number 68-14084 is hereby revoked.

SERVED on the date of mailing.



Douglas H. Haake  
Administrative Law Judge  
Office of Administrative Hearings

**NOTICE TO THE PARTIES OF APPEAL RIGHTS**

You may file an appeal of this order within twenty three days from the day OAH mails this initial order to you. WAC 230-17-090(2); *see also* WAC 230 -17 -030(2), WAC 230 -17 -035(2) [Service by first class mail is complete three days after mailing.]. An appeal from an initial order is known as a "petition for review". Your petition for review should (a) identify the parts of the initial order you disagree with and (b) refer to the evidence in the record that supports your position. If you decide to petition for review, you must serve copies of your petition on all parties or their representatives at the same time you file it with the Gambling Commission. If the Commission does not receive a petition for review within 23 days, the Commission will automatically make this order its final order.

Any party may file a written response to a petition for review, known as a reply. If you wish to file a reply, it must be filed with the Commission within thirty days of the date you are served with the petition. You must serve copies of the reply on all parties or their representatives at the same time you file your reply.

Any party may file a cross appeal. Cross appeals must be filed with the commission within ten days of the date when the petition for review is filed with the Commission. WAC 230 -17 -090(5). If you wish to make a cross appeal, you must serve copies of the cross appeal upon all other parties or their representatives at the same time you file your cross appeal.

If a party timely files a petition for review, then at least a majority of the Commission members shall review the petition within 120 days and render a final order.

**Certificate of Service – OAH Docket No. 2013-GMB-0007**

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

<p><b>William R. Shepard</b>  <b>4213 220<sup>th</sup> Street East</b>  <b>Spanaway WA 98387</b></p>	<p><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</p>
<p><b>Stephanie U. Happold</b>  <b>Assistant Attorney General</b>  <b>Office of the Attorney General</b>  <b>PO Box 40100</b>  <b>Olympia WA 98504-0100</b></p>	<p><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</p>
<p><b>Washington State Gambling Commission</b>  <b>ATTN: Legal Department</b>  <b>PO Box 42400</b>  <b>Olympia WA 98504</b></p>	<p><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</p>

Date: April 30, 2013

  
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 Cyndi Michelena  
 Office of Administrative Hearings