

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of)
the License to Conduct Gambling Activities of:) NO. CR 2013-00661
)
)
Thomas J. Finnerty) **NOTICE OF ADMINISTRATIVE**
Kenmore, Washington,) **CHARGES AND OPPORTUNITY FOR**
) **AN ADJUDICATIVE PROCEEDING**
)
Licensee.)
_____)

I.

The Washington State Gambling Commission issued Thomas J. Finnerty the following license:
Number 68-23375, authorizing Card Room Employee activity currently with Riverside Casino in Tukwila and formerly with Palace Casino in Mountlake Terrace.

The license expires on March 9, 2014, and was issued subject to Mr. Finnerty's compliance with state gambling laws and rules.

II.

David Trujillo, Interim Director of the Washington State Gambling Commission, charges the licensee with the following violations of Chapter 9.46 RCW, and WAC Title 230.

SUMMARY:

Thomas Finnerty, a cage cashier at Palace Casino in Mountlake Terrace, stole \$12.00 during his shift as a cashier.

FACTS:

- 1) On March 30, 2013, Tod McClane, General Manager of Palace Casino in Mountlake Terrace, sent a Washington State Gambling Commission Special Agent (agent) an e-mail about a theft in the cashier's cage. Mr. McClane said Thomas J. (TJ) Finnerty, a cage cashier, stole \$12.00 from the cage. Mr. Finnerty had counted the cage inventory of cash and chips at the end of his shift and determined there was a \$12.00 cash overage. Mr. Finnerty stole this \$12.00 cash overage.
- 2) On April 1, 2013, the agent talked to Jamie Sands, Accounting Manager, about the incident. Ms. Sands said on March 29, 2013, Evan Cataline, Security Manager, and Bunthoeun (BE) Chim, Floor Manager escorted Mr. Finnerty into her office. Ms. Sands said that before she could start to talk to Mr. Finnerty, he said this was about the \$12.00 from the cage. Ms. Sands told him she

didn't know anything about the \$12.00 from the cage. Ms. Sands said Mr. Finnerty talked on and on about how dumb it was to take the \$12.00 and he would pay it back. Ms. Sands said when Mr. Finnerty was finished talking to her, Mr. Cataline escorted Mr. Finnerty to the cage cashier where Mr. Finnerty picked up his tip bag and paid the money back. Mr. Finnerty was escorted out of the casino.

3) Anthony Hurd, surveillance observer, reviewed a recording of Mr. Finnerty's activity on March 29, 2013, and prepared a written statement. He stated Mr. Finnerty took a \$10 bill and two \$1 bills and placed them between the "wiz" machine and his clear tip bag. The statement also states that at 21:11 Mr. Finnerty collects what appears to be \$12.00 and places it into his tip bag. When the agent talked to Mr. Hurd, he said he thought it was unusual that Mr. Finnerty was both counting the cash in the bar bank and counting the cage inventory of chips and cash at the same time in order to prepare the closing swing cage records for cage shift change.

4) At the Palace Casino, shift change takes place at the cashier's cage at 9:00 p.m. At that time, the mid-day or swing shift goes off duty and the night shift starts. Both the incoming and outgoing cashiers count the cage inventory that includes both cash and chips. When the cage countdown is complete and both cashier agree to the cage inventory they both sign the cashier Window Count Sheet.

5) On April 5, 2013, the agent received a surveillance DVD of the incident that included the cage audio recording. There is an 8.5" x 11" sign in the back of the cashier's cage stating the cage is under both audio and camera surveillance coverage twenty-four hours a day. The agent reviewed the surveillance DVD and noted the following:

- At approximately 21:10, Mr. Finnerty is heard telling Robert Jones, the incoming night cashier, that he (Mr. Finnerty) was \$12.00 over.
- The DVD showed Mr. Finnerty in the cashier's cage standing in front of the cash drawer with money in his hand. The money in Mr. Finnerty's hand is separated by one of his fingers, a large group of bills on top and a small group of bills beneath his finger. Mr. Finnerty turns to his left and moves to the left side of the cashier's cage where he folds the lower, smaller group of bills in half.
- Next, Mr. Finnerty moves to the rear of the cage and stands next to the electronic wiz machine. Then, Mr. Finnerty places the folded bills next and to the outside of his clear plastic tip bag. Next, Mr. Finnerty places the larger top group bills into the the Bank of America gray bank bar bag. He then returns to his tip bag, picks up the folded cash, and places it into his tip bag.

6) The agent reviewed the following cage records:

- The Cashier Window Count Sheet for March 29, 2013, "DAY AFTER S/C" (soft count), which was printed at 2:29 PM on March 29, 2013, and was signed by Mr. Finnerty. Mr. Finnerty recorded no over/short on this record.

- The Cashier Window Count Sheet for March 29, 2013, "SWING OPEN," which was printed at 9:12 PM on March 29, 2013, is completed by the outgoing cashier (Mr. Finnerty) and the incoming cashier. Mr. Finnerty recorded no over/short on this record.
- The Cashier Window Count Sheet for March 30, 2013, "DAY AFTER S/C," which was printed at 5:15 PM on March 30, 2013, was signed by Crystal Francis, the day cashier. Ms. Francis recorded the \$12.00 Mr. Finnerty paid back to the cage after his meeting with Ms. Sands as an overage to the cage. She noted it in the "Explanation" box at the bottom of the page.

7) On April 5, 2013, the agent made contact with Mr. Finnerty and invited him to come to the Washington State Gambling Commission (WSGC) Field Office in Everett to tell his side of the incident.

8) On April 10, 2013, Mr. Finnerty came to the WSGC office in Everett. He provided a written statement in which he admitted to stealing the \$12.00. In his statement, Mr. Finnerty stated he noticed as he was preparing his shift change paperwork that he was \$12.00 over. He was going to borrow the \$12.00 to order food after work and tell Bob, the oncoming cashier, to replace the \$12.00 when he did tips at the end of his shift. He decided not to because he was the first person back in the morning and he would take care of it then. After he put the \$12.00 in his bag and left the cage, it dawned on him that he was "effectively floating a \$12 loan" to himself "or stealing \$12.00." Mr. Finnerty did not think it would matter because he would put it back in the morning. He added that he made a "terrible mistake and deserves whatever comes of this situation."

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; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e) Associations.

3) RCW 9.46.190 Violations relating to fraud or deceit.

Any person or association or organization operating any gambling activity who or which, directly or indirectly, shall in the course of such operation:

(The following subsections apply.)

(1) Employ any device, scheme, or artifice to defraud;

(3) Engage in any act, practice or course of operation as would operate as a fraud or deceit upon any person.

4) RCW 9.46.153 Applicants and licensees — Responsibilities and duties — Waiver of liability — Investigation statement as privileged.

(The following subsection applies.)

(1) 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.

Thomas J. Finnerty stole \$12.00 during his shift as a cashier, in violation of RCW 9.46.190 (1) and (3). As a result, he has failed to demonstrate that he is qualified to hold a license, in violation of RCW 9.46.153, and there are grounds to revoke Thomas J. Finnerty's license based on RCW 9.46.075(1), (8), 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, the enclosed REQUEST FOR HEARING must be completed in full by the licensee or representative 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 THIS DOCUMENT WILL RESULT IN THE ENTRY OF A DEFAULT ORDER FOR REVOCATION OF YOUR LICENSE.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

David Trujillo being first duly sworn on oath, deposes and says: He has read this Notice of Administrative Charges and Opportunity for An Adjudicative Proceeding, knows the contents, and believes the same to be true, and that he is the duly appointed and qualified Interim Director of the Washington State Gambling Commission and in that capacity has executed these Charges.

David Trujillo

DAVID TRUJILLO, INTERIM DIRECTOR

SUBSCRIBED AND SWORN TO before me
this 24 day of May, 2013.

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)
)
COUNTY OF THURSTON)

I certify I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy, property 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 28 day of May, 2013
Maureen Pretell

