STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension of the License to Conduct Gambling Activities of: Adam Kilminster Kenmore, Washington, Licensee.	)	NO. CR 2013-00156 **NOTICE OF ADMINISTRATIVE CHARGES AND OPPORTUNITY FOR AN ADJUDICATIVE PROCEEDING**

I.

The Washington State Gambling Commission issued Adam Kilminster the following license: Number 68-29699, authorizing Card Room Employee activity with Silver Dollar Casino in Mill Creek. The license expires on March 31, 2013, and was issued subject to Mr. Kilminster's compliance with state gambling laws and rules.

II.

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

SUMMARY:

Adam Kilminster under-reported $1,192 in tips from January 19, 2013, to February 3, 2013.

FACTS:

1) On December 17, 2012, a Washington State Gambling Commission Special Agent (agent) met with Todd Marshall, General Manager of Royal Casino. During the meeting, Mr. Marshall and the agent reviewed the card room's internal controls section regarding the requirement for employees to accurately report all tips they received. Mr. Marshall said all dealers had recently received a letter from Washington Gold[1] management reminding them they are required to report all tips received. The letter included WAC 230-15-475 6(d), which provides that all employees must "Accurately report all tips to their employer as described in the licensee's internal controls." Mr. Marshall said Mr. Kilminster signed a copy of the Washington Gold tip letter on October 17, 2012.

[1] Washington Gold, located in Renton, manages Coyote Bob's Roadhouse Casino, Crazy Moose Casino, Golden Nugget Casino, Club Hollywood Casino, Red Dragon Casino, Royal Casino, and Silver Dollar Casino.

2) The Silver Dollar Casino internal control regarding reporting tips was revised on January 14, 2013. The current policy states, "Card room employees will report tips earned utilizing the Aloha[2] computer program. Tips earned will be reported on the day they are received."

3) The previous internal control policy dated June 14, 2010, stated: "All dealers will redeem their tips under surveillance at the cashier's cage. All toke[3] earnings will be reported to management."

4) On January 18, 2013, the agent reviewed the payroll records at Silver Dollar Casino. Zehn Valdez, of Accounting, was the primary point of contact. The payroll records include the amount of tips reported by the dealers. The agent knew that dealers take their toke boxes to the cashier's cage. The cashier unlocks the toke box, places all of the casino chips inside on the counter, and gives the dealers cash for the chips. The dealers then log out as off-duty. The Aloha computer tracker asks the dealers how much they collected in tips, and the dealers then input the amount they received for that shift.

5) The agent noticed Mr. Kilminster reported no tips received. Ms. Valdez said Mr. Kilminster had been a dealer at Silver Dollar Casino for at least a year prior to becoming poker manager around October 2012. The agent requested Ms. Valdez confirm with Mr. Kilminster that he knew the requirement to report tips and how to properly report tips.

6) Ms. Valdez provided me a copy of the Washington Gold letter Mr. Kilminster signed dated October 17, 2012, indicating he was notified of the requirement to report all of his tips and was given a copy of WAC 230-15-475.

7) The Washington Gold Team Member Handbook, given to all Silver Dollar Casino employees, states on page fifteen, "All tipped Team Members are required to declare 100% of their tipped income." Ms. Valdez provided me a copy of the receipt Mr. Kilminster signed on July 22, 2011, indicating he had received the hand book.

8) On January 18, 2013, Ms. Valdez sent the agent an e-mail stating she talked with Mr. Kilminster about tip reporting. Mr. Valdez said she asked Mr. Kilminster to remind all of his staff of the requirement to report all tips and to make sure they knew how. She said, "Adam stated that no one should 'not know how' because we have been doing it this way for a while."

9) On January 18, 2013, the agent met with Christian Singer, Surveillance Manager, and requested the Silver Dollar Casino surveillance staff document and record via surveillance camera the amount Mr. Kilminster received when he cashed in his tips.

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[2] Computer based software where employees log in at the start of their shift, and log out at the end of their shift. The program requires each employee to input the last four numbers of their social security number. The program has an icon labeled "Tips." When the tips icon is pressed the user is presented a screen similar to the number keys on a calculator, they are then required to input a tip amount and hit the enter key before the program will allow them to log out.
[3] Tokes are gratuity received by card room employees who are dealers from players or patrons.

10) Ms. Valdez provided the agent with a copy of Mr. Kilminster's payroll records, including the amount of tips he reported, for the entire period of January 18 2013 to February 3, 2013. The tips were documented by the gaming day when Mr. Kilminster started his shift.

11) On February 4, 2013, the agent compared the tip amount surveillance documented for Mr. Kilminster with the payroll report the agent received from Ms. Valdez. The agent determined that Mr. Kilminster cashed in $1,214 in tips at the cashier's cage during the period of January 18, 2013, to February 3, 2013. Mr. Kilminster reported $22 in tips, a difference of $1,192, in violation of WAC 230-15-475(6)(d).

12) The agent observed the surveillance recordings of each incident. Mr. Kilminster was readily identifiable handing his toke box to the cage cashier and receiving cash back. The agent saw the cage cashier open the toke boxes, remove the tips, count the tips, and cash the chips in for U.S. currency, which was then given to Mr. Kilminster. The agent compared the amount of tips cashed by the cage cashier to amounts reported by surveillance staff. They appeared to be materially accurate. The agent used the Silver Dollar Casino internal controls documentation of house-banked and poker chips color and marks to confirm amounts.

13) On February 5, 2013, the agent interviewed Mr. Kilminster, who wrote a sworn statement indicating he received a copy of the Washington Gold letter and WAC rules reminding him to report all of his tips. He stated he under-reported the tips he received in order to reduce the amount of federal income taxes he was paying and to increase the size of his paycheck. He further stated, he knew the requirement to report the tips and knew how to.

14) Mr. Kilminster said he is encouraged by Silver Dollar management to play poker while on duty and frequently loses money. He rationalized the amount of money he lost gambling was equal to the amount he received in tips, therefore he should not pay taxes on the tips he receives.

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 subsection applies.)

(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.

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.

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level.

(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) WAC 230-15-425 Internal controls
(The following subsection applies.)

(2) Licensed card room employees must follow the internal control procedures for their individual functions.

4) WAC 230-15-475 Tips from players and patrons to card room employees
(The following subsection applies.)

(6) Employees must…
(d) accurately report all tips to their employer as described in the licensee's internal controls.

5) 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.

Adam Kilminster failed to comply with internal control procedures by not accurately reporting his tips, in violation of WAC 230-15-425 and WAC 230-15-475. On October 17, 2012, Mr. Kilminster signed a copy of WAC 230-15-475 from Silver Dollar Casino, acknowledging he must accurately report tips as described in the internal controls. As a result, he has demonstrated willful disregard for complying with Commission rules. Mr. Kilminster has failed to establish by clear and convincing evidence, as required by RCW 9.46.153(1), that he is qualified to be licensed. In addition, failure to comply with internal controls and accurately report tips establishes that 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 based on his activities. As a result, there are grounds to suspend Adam Kilminster's license based on RCW 9.46.075(1), and WAC 230-03-085(1), (3) 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 A 30-DAY SUSPENSION 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 Acting Director of the Washington State Gambling Commission and in that capacity has executed these Charges.

D. J. Trujillo
DAVID TRUJILLO, ACTING DIRECTOR

SUBSCRIBED AND SWORN TO before me this 7 day of March, 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 8 day of March, 2013

Maureen Pretell