

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension of the License and)
Certification to Conduct Gambling Activities of:)
Yuan Wang)
Bellevue, Washington,)
Licensee/Class III Employee.)

NO. CR 2013-01138

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

I.

The Washington State Gambling Commission issued Yuan Wang the following license and certification¹.

Number 69-19949, authorizing Class III Employee activity with the Tulalip Tribe; and
Number 68-19993, authorizing Card Room Employee activity, formerly with Drift on Inn in
Shoreline.

The license and certification expires on July 22, 2014, and was issued subject to Mr. Wang's
compliance with state gambling laws and rules.

II.

David Trujillo, Director of the Washington State Gambling Commission, charges the
licensee/Class III employee with the following violations of the Tulalip Tribal/State Compact,
Chapter 9.46 RCW, and WAC Title 230.

SUMMARY:

Yuan Wang under-reported \$1,244.50 in tips from April 1, 2013, to April 14, 2013.

FACTS:

1) On March 12, 2013, a Washington State Gambling Commission Special Agent (agent) went to
the Drift on Inn card room, located in Shoreline. The agent gave a notification letter to the
Regional Manager, Oscar Trusley, stating it was Commission staff's intent to review the licensee's
tip reporting process. The agent told Mr. Trusley that within the next month the agent would come
back and look at the amount of tips dealers were reporting.

¹ Class III Certification is issued to employees working at tribal Casinos. The certification authorizes similar activities
as the Card Room Employee (CRE) license issued to individuals working at commercial house-banked card rooms. By
submitting a transfer form and fees, holders of a Class III Certification may convert their certification to a CRE license.

2) On April 11, 2013, the agent returned to the Drift on Inn to conduct a routine payroll inspection. During this time, the agent randomly picked a number of dealers to audit the tips² they reported. Among the dealers the agent chose to audit was Yuan Wang.

3) The agent went to the Drift on Inn's accounting office and spoke with accounting employee Vicki Kubo. The agent asked Ms. Kubo for Mr. Wang's time sheets to show what days he worked and what time he clocked off of work. Ms. Kubo provided the time sheets for Mr. Wang. For the payroll period of April 1, 2013 to April 14, 2013, Mr. Wang worked a total of 62 hours. Ms. Kubo provided a copy of Mr. Wang's IRS 4070 form where he recorded his tip amounts for the pay period of April 1, 2013 to April 14, 2013, which he signed. Ms. Kubo previously told the agent that the form was used by dealers to record their tips, and then they turned the form in to the cage cashier. On the IRS 4070 form for the pay period of April 1, 2013 to April 14, 2013, Mr. Wang wrote down that he had received \$150 in tips, and the "tips paid out" amount was blank.³

4) The agent went to the surveillance department and asked Surveillance Observer Eric Yost to have the surveillance observers track the amount of tips Mr. Wang cashed out at the end of his shift at the cashier's cage. The agent gave Mr. Yost the days and times Mr. Wang cashed out his tips. The agent told Mr. Yost to have someone record the surveillance video of Mr. Wang cashing out his tips onto a DVD that the agent would pick up at a later time.

5) On May 16, 2013, the agent returned to the Drift on Inn and collected six DVD's from Surveillance Observer David Leib that had been copied. The agent reviewed the surveillance video, which shows Mr. Wang cashing out his tips from April 1, 2013 to April 14, 2013. The video also shows the difference between the amount of tips Mr. Wang actually made and the amount of tips reported to accounting minus tips he paid out.

6) Mr. Wang's IRS 4070 form claimed a total of \$150 in tips, with nothing being paid out as tips to other persons. However, it appeared that Mr. Wang had given the cage cashiers a total of \$50 over the same two-week period. Using the \$150 in tips that Mr. Wang claimed, there was a difference of \$1,244.50 between the amount of tips Mr. Wang actually made (\$1,394.50) and the amount of tips reported, which is a significant difference. This meant that Mr. Wang only claimed 10.76% of his actual tips, and he did not follow the procedure for reporting his tips per the Internal Controls.

7) On June 11, 2013, the agent interviewed Mr. Wang about under-reporting of tips. The interview is summarized as follows:

- The agent asked Mr. Wang where he currently worked. Mr. Wang stated that he was on-call at the Drift on Inn and also worked at the Tulalip Casino. Mr. Wang added that he has worked as a dealer for ten years; he has been at the Drift on Inn for a year and a half and about a month at the Tulalip Casino.

² Tips are also referred to as tokes. Both are gratuities received by card room employees (dealers) from players or patrons.

³ It is a common practice to tip the cage cashier after the dealer has been cashed out by the cage cashier.

- The agent read and also provided a copy of WAC 230-15-425(2), Failure to Accurately Report All Tips to Employer and WAC 230-15-475, Failure to Follow Internal Controls. The agent asked if Mr. Wang was familiar with the WACs, and he stated he was not. The agent informed Mr. Wang that as a card room employee, he should be familiar with them.
- The agent read and also provided Mr. Wang with a copy of the Drift on Inn's Internal Controls regarding tips. The agent explained the Internal Controls (IC's) to Mr. Wang and had him initial next to the pertinent sections. Mr. Wang stated he had never seen the IC's. The agent told Mr. Wang that it was his responsibility as a card room employee to be familiar with the IC's.
- The agent showed Mr. Wang a copy of the Drift on Inn memo dated December 21, 2012, regarding dealer tips that had previously been posted in the Drift on Inn employee break room. Mr. Wang stated he had seen the memo. The agent also showed a copy of another Drift on Inn memo dated March 13, 2013, regarding claiming tips. The memo stated that employees were to "accurately report all tips." It also stated that the "Washington State Gambling Commission will be randomly auditing dealers to ensure they are reporting accurately." Mr. Wang stated that he had seen the memo.
- The agent told Mr. Wang that via the surveillance video, the agent confirmed that Mr. Wang made \$1,394.50 in tips, which was a difference of \$1,244.50 in what he had claimed he made in tips. Mr. Wang explained he did not have a good memory and couldn't remember the amount of tips he made since he didn't keep track of the amounts. The agent showed Mr. Wang that he had cashed out \$725.25 in tips on April 8, 2013. The agent told Mr. Wang that just one time was more than the \$150 he had claimed he made in tips. Mr. Wang stated he couldn't remember what he made and he didn't know why he didn't keep track of his tips by writing down the amount he cashed out. Mr. Wang stated he would keep track of his tips from now on.
- The agent informed Mr. Wang that if he claimed less in tips then he would not have to pay as much taxes to the government. Mr. Wang again stated that the only reason he didn't write down the correct amount is because he has a bad memory.
- Mr. Wang stated that another reason he did not claim all of his tips was because other employees at the Drift on Inn were also not claiming all of their tips. The agent told Mr. Wang that it was his responsibility to keep track of the amount of tips he made and then report the correct amount.
- Mr. Wang provided a written statement. In Mr. Wang's statement he wrote that he was a dealer at the Drift on Inn and Tulalip Casino. Mr. Wang also wrote that he had not seen the IC's for the Drift on Inn. Mr. Wang stated that he has "not been claiming [his] tips." Additionally, Mr. Wang wrote that he could not remember how much he made each day and will claim all of his tips "from now on."

VIOLATIONS:

1) Section V.C. of the Tulalip Tribe/State Compact

The State Gaming Agency⁴ may revoke, suspend or deny a State certification under the provisions of RCW 9.46.075, and rules promulgated there under, or for any reason or reasons it deems to be in the public interest. In addition, these reasons shall include, but shall not be limited to when a holder of certification:

(The following subsection applies.)

(1) Is determined to be a person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the effective regulation of gaming or create or enhance the chances of unfair or illegal practices, methods and activities in the conduct of the gaming activities permitted pursuant to this Compact; or the person has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by any provision of a Tribal-State Compact.

2) 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.

3) 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.

⁴ Washington State Gambling Commission, as referred to in the Tulalip Tribal/State Compact, Section 2 (p).

4) 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.

5) 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.

6) 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.

Yuan Wang failed to comply with internal control procedures by not accurately reporting his tips, in violation of WAC 230-425 and WAC 230-15-475. Mr. Wang 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/certified employee 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 or revoke Yuan Wang's license based on the Tulalip Tribal/State Compact, RCW 9.46.075(1) and WAC 230-03-085(1), (3) 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/certified employee 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/certified employee 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/CERTIFICATION.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

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 Director of the Washington State Gambling Commission and in that capacity has executed these Charges.

David Trujillo
DAVID TRUJILLO, DIRECTOR

SUBSCRIBED AND SWORN TO before me
this 1 day of August, 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 2 day of August, 2013

[Signature]

