

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the)
Licenses to Conduct Gambling Activities of:)
)
Drift On Inn Road House Casino)
Shoreline, Washington,)
)
Licensee.)
_____)

No. CR 2011-00093

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

RICK DAY alleges as follows:

I.

He is the Director of the Washington State Gambling Commission and makes these charges in his official capacity.

II.

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

III.

The Washington State Gambling Commission issued Drift On Inn Road House Casino (Drift on Inn, Drift), organization number 00-22172, located at 16708 Aurora Ave. N., Shoreline, Washington, the following licenses:

Number 67-00306, authorizing Class "15" House-Banked/Card Room activity.

Number 05-20938, authorizing Class "J" Punchboard/Pull-tab activity.

The license, which expires on September 30, 2011, was issued subject to the licensee's compliance with state gambling laws and regulations.

IV.

SUMMARY:

From at least December 2010 to January 14, 2011, the licensee was unable to reconcile their Player Supported Jackpot¹ (PSJ) account. The licensee failed to disclose all loans over \$10,000

to Commission staff. The licensee also did not follow the operating hours listed in their internal controls. In addition, the licensee did not keep their payroll documents up to date and issued large employee cash advances without accounting for or tracking of funds and amounts. At least two Notice of Errors (NOEs), were not reported to Commission staff, as required. The actual cash in the licensee's vault did not match the amount on the Vault Cash Log or the Detail of Bank Deposit and Reconciliation. Also, the licensee's accounting documents were mislabeled and incomplete.

FACTS:

1) On January 18, 2011, at approximately 10:00 a.m., a Commission Special Agent (agent) went to the Drift on Inn to complete an inspection. Although the licensee's hours of operation per their Internal Controls² (ICs) state they open at 11:00 a.m., they were operating non-house banked gaming tables. The agent asked Luva Childe, Accounting Manager, what time they open, and she said house banked games open at 11:00 a.m., but they have a poker tournament that starts at 10:00 a.m. The agent told Ms. Childe that they need to submit an IC change because their hours of operation do not reflect what is in their ICs. On January 25, 2011, the agent received the IC change reflecting their opening time at 10:00 a.m.

2) On January 19, 2011, Lindsey Baker, a prior card room employee (CRE) of the Drift on Inn, asked to speak with another agent. Ms. Baker came into the Everett Field Office and two agents sat in on the conversation.

3) Ms. Baker explained that she was recently fired from the Drift on Inn and did not feel that it was fair. She said she worked in the accounting department as an assistant, and that Ms. Childe was the Accounting Manager that fired her. Ms. Baker said Ms. Childe fired her because she claimed she was changing her clock-in and out time in order to gain more hours. Ms. Baker said that she never changed any of her hours and actually kept all her receipts when she punched in and out from the Point of Sale³ (POS) system. Ms. Baker said Ms. Childe showed her that hours

¹ **Player Supported Jackpot (PSJ)**

The casino offered a dealt poker game. In conjunction with the poker game, they offer a Player Supported Jackpot (PSJ). The PSJ is a separate contest of chance directly related to the play and outcome of the poker game. It is not a card game itself. The funding for the PSJ comes from the player's wagers. When the aggregate amount the players have wagered (the poker pot) reaches \$20, the pot then qualifies to have \$1 removed from the player's pot and dropped into the PSJ lock box that is secured to the poker table. The PSJ funds collected in the drop box are counted daily and deposited into a separate bank account. Any interest earned by the PSJ account is also returned to the players as prize payment.

² **Internal Controls (IC's)** are required of each licensee card room to ensure that all game are closely controlled and operated in accordance with gambling laws.

³ **Point of Sale** is the hardware and software used for checkouts, the equivalent of an electronic cash register. A POS terminal manages the selling process by a salesperson accessible interface. The same system allows the creation and printing of the receipt.

were changed in the system. Ms. Baker said she did not do it herself, and didn't even have the passwords/access to the system. Ms. Baker said there have been some computer issues, and it may have been the glitches in the system.

4) Ms. Baker said that there was a lot of suspicious activity going on at the Drift. She said that Mr. and Mrs. Mark Mitchell own and run the casino, and have three sons named John, Quinn and Michael. Ms. Baker informed the agent that she believes that Michael Mitchell has a significant drug/cocaine problem and uses casino funds in order to pay off drug suppliers and to support his habit. She said she has been asked to write Michael Mitchell checks on the spot from the Drift on Inn account (per direction from Mark Mitchell and Ms. Childe) and did not feel comfortable doing it.

5) Ms. Baker explained that she was making a huge effort to try to learn the proper accounting procedures. She said most of the time, money and documents were not balancing, so Ms. Childe would just tell her to "put in numbers" so they would balance. Ms. Baker said she was uncomfortable doing this, but she did it because she did not want to lose her job. She said the paid-in and out slips were not filled out completely and were often used more as a balancing tool. Ms. Baker said that was why there were so many "edits" or amounts on the paid-in and paid-outs being crossed out and revised. She also said that the Vault Cash Log was kept in the accounting office, and it was rarely accurate. She said most of the time the Vault Cash Log did not actually equal what was actually in the vault, but she just wrote what Ms Childe told her to.

6) Ms. Baker also said that there was a box with money kept in the accounting office. She said that although the accounting office is locked, there is a butter knife next to the door that can open it without a key.

7) On January 24, 2011, an agent went out to the Drift on Inn and collected several daily gaming packets. Ms. Childe was not on site but the agent spoke with Ron Jones, Food and Beverage Manager. The agent asked him if they allowed employee advances, and he said they did not.

8) On January 31, 2011, the agent went to the Drift on Inn. The agent asked Ms. Childe about allowing employee advances and she said, "Well, we don't, but we give them out." The agent asked her if she had some sort of system in place for tracking the advances, since the agent saw the entries on the check register. Ms. Childe said that they don't have any type of system, but she would set one up.

9) The agent told Ms. Childe that she needed to count the cash in the vault. Ms. Childe said the vault was in the count room. They went downstairs, and Ms. Childe got her keys. Ms. Childe asked the agent if they needed security to get in or if they could just use surveillance. The agent responded by asking who has the keys. Ms. Childe said they needed security. The agent and Ms. Childe went into the count room, and Ms. Childe opened the vault. It contained some chips but no cash. The agent and Ms. Childe went back upstairs, and the agent took the Vault Cash Log off the wall. The last entry in the log was made on 1/26/2011, and the balance showed that there was \$10,000 in the vault. The agent asked Ms. Childe why it said there was \$10,000 in the

vault when there really wasn't any money. Ms. Childe said that she just had not updated the paperwork from the weekend.

10) The agent asked Ms. Childe about the paid-in and paid-out slips from the vault and the cage. Ms. Childe told the agent that the procedures were to first figure out how much cash was due to the cage. Then the cage cashier would fill out a paid-in or paid-out slip. Ms. Childe said they would then get the cash amount out of the vault. Ms. Childe said they don't get the exact cash amount, and that instead they actually round up. For example, if the amount due to the cage was \$896.12, Ms. Childe would take \$1,000 out of the vault and then fill out a paid-in slip for the difference. The paid-in slip would be filled out for \$103.88 and the \$1,000 cash would go into the cage. Ms. Childe said she usually doesn't fill out a paid-in slip for the full amount, she just takes the difference. The agent asked Ms. Childe if all the paid-in and out slips are filled out in the cage, and Ms. Childe told the agent that they are also filled out up in the office. The agent asked Ms. Childe if there was surveillance in the accounting office where some of the paid-in and paid-outs were filled out, and she said there was not. Ms. Childe also said sometimes they would not have enough cash, so they would have to "borrow" from Emerald Downs,⁴ go to the bank at some point or borrow from next door (referring to Hollywood Casino, with similar ownership).

11) The agent reviewed the paid-in/out slips for December 2010, and noticed that several were not completed properly. For the 31 day period reviewed, there were a total of at least 315 paid-in/out slips completed. Out of the 315 completed, at least 300 did not have all three of the required signatures, for the person paid to, the person making the payment, and the person authorizing the pay-out.

12) On February 3, 2011, Ms. Baker came in for another interview. She brought a written statement in with her, which she signed in the agent's presence. Ms. Baker explained that while Ms. Childe was gone, Michael Mitchell came into the accounting office and asked for a check for \$1,200. Ms. Baker said she didn't even know if she was authorized to do it, but that Michael Mitchell called his father and handed her the phone. Mark Mitchell gave authorization for Ms. Baker to write Michael Mitchell the check, and told her where their pre-signed checks were located in the accounting office.

13) Ms. Baker explained further that Ms. Childe asked her to force numbers into the accounting documents including: paid-in and paid-outs, vault and cage records. Ms. Baker said if the drop⁵ was not enough to cover what was due back to the cage, Ms. Childe would just have her fill out a paid-in slip to the cage, and then Ms. Childe would come up with the money at some point later in the day. Ms. Baker said it appeared that there was money in the cage that really wasn't there yet. Finally, Ms. Baker said that when she finally stated that she was uncomfortable with some of the accounting practices that Ms. Childe was telling her to perform; she was fired within a week.

⁴ On the second floor of the Drift on Inn, is an area for Emerald Downs off-track betting.

⁵ Drop – The total amount of cash and chips contained in the drop box from the gaming floor.

14) On February 4, 2011, the agent had e-mail correspondence with Ms. Childe regarding the POS computers and punching in and out for work. Ms. Childe provided the agent with copies of the POS system time sheets, as well as the spreadsheets that the information from the POS system gets entered into by accounting. The agent noticed several edits on the Employee Attendance Report time entry. Ms. Childe told the agent that even though they could not prove that Ms. Baker was editing her time, Drift let her go, nonetheless. Ms. Childe also mentioned that several employees' time had been messed up because there were issues with the POS system clocking people in and out.

15) The Drift has Emerald Downs off-site betting setup on their second floor, in the same area as pull tabs. The agent contacted the Horse Racing Commission about the rules applicable to the Emerald Downs bank, and Drift's use of their bank. Doug Moore with the Horse Racing Commission responded via phone and left the agent a voicemail. He said as long as licensees are able to pay out the entire amount to horse race winners/bettors, there are no violations.

16) On February 7, 2011, the agent went to the Drift and spoke with Quinn Mitchell. The agent asked him if he could walk her through how they edit employees' time in the POS computer. He gave the agent the phone number of POS Solutions, who they call when there are problems with the system.

17) The agent spoke with Ms. Childe, and asked her where their employee personnel files were. She pointed the agent to a cabinet. The agent asked Ms. Childe if when someone is hired or fired, they do any paperwork. She responded with, "Sometimes, we are supposed to, but they are not all up to date." The agent went through and found Ms. Baker's file. There was a Payroll Action Notice in her file that showed the reason given for separation as, "Adjust payroll hours to show time arriving earlier than when she got there and/or leaving later than she did."

18) The agent asked Ms. Childe if the payroll sheet that she previously gave her with the adjusted hours was the reason Ms. Baker was terminated, and she responded, "yes." The agent asked Ms. Childe how she knew that Ms. Baker was changing her hours. Ms. Childe responded that she accidentally clicked on the Attendance Adjustment report in the system and noticed all the changes in Ms. Baker's hours. The agent asked Ms. Childe to show her, and she did. The Attendance Adjustment Report shows the clock-in and out times after they have been adjusted by managers and employees if mistakes have been made. The agent asked how often people adjust hours. Ms Childe said that it happens all the time because they have to take off a half hour lunch manually from everyone's shift (if they get a lunch break). The agent reviewed the paperwork. There were several edits for multiple employees, including 42 pages of edits for one month. The agent asked Ms. Childe what other proof she had that Ms. Baker edited her time sheets, and Ms. Childe said she did not have any. The agent asked if she gave Ms. Baker access to the payroll system, and Ms. Childe said she did. The agent asked her what Ms. Baker's password was, but she did not know.

19) The agent got up to leave their meeting, and Ms. Childe asked to talk to her again. Ms. Childe told the agent that she knows all of the records are messed up, but she doesn't know what to do. Ms. Childe told the agent that the PSJ account is negative, but there is money in the bank. The agent asked her what she meant by that, and Ms. Childe said that the bank account doesn't match the PSJ Prize Fund Accrual Record. The agent asked her why, and Ms. Childe responded that it was because she had not transferred payouts from the PSJ account to the general account, where the prizes were paid out. The agent asked Ms. Childe why it was negative, and she said it was because Mr. and Ms. Mitchell wanted the seed money⁶ to be taken out, so it went into a negative amount.

20) Ms. Childe then told the agent that when an accounting manager decided not to work for the Drift anymore, Ms. Childe was "on her own." Ms. Childe explained that she had a trip planned to Hawaii, and the prior manager was supposed to continue to train Ms. Baker while she was gone. The other manager left his position before training Ms. Baker. Ms. Childe advised the agent that she thought Ms. Baker did the best she could with the knowledge she had, and that Ms. Baker tried really hard. Later, the agent reviewed Ms. Baker's separation from employment sheet. Ms. Childe had recorded in her evaluation that Ms. Baker's performance was less than good, in contradiction to Ms. Childe's report to the agent that Ms. Baker tried very hard.

21) On February 8, 2011, the agent e-mailed Ms. Childe and asked her how Drift can look back at an employee's clock-in or clock-out time history in the POS computers and determines if entries had been changed. Ms. Childe responded and said there is no way to go back to see the original hours once they have been changed in the system. Thereafter, a representative from POS Solutions called the agent. The agent asked him if there was any way to tell who was logged in when there were certain changes made to the system. He said he didn't know how to do it, but there must be a way. He said he would call Soft Touch and get back to the agent as soon as possible.

22) The POS representative returned the agent's call and explained that there was a way to get into the system. The agent then went to the Drift and got on the Payroll computer. Ms. Childe was there as well. The POS representative explained that you can see who logs in and makes changes by going into the security feature. The "employee" shows the name of the person you are editing or that is clocking-in/out. "Employee Override" shows the employee that is changing something in the system. The agent printed the computer view of the Soft Touch Office Security feature. The employees that are identified by the log as having altered Ms. Baker's hours are: John Love, Tom McKibbin, Roy Lopez, William Hubbell, Claudia Rojas, Ron Jones, Tim Calvo and Scott Fjerstad.

23) The agent asked Ms. Childe if she is the one that always does the payroll, and she said that she performs payroll functions most of the time. The agent asked Ms. Childe if she knew how to use the security feature, and she said she didn't know it existed. The agent advised Ms. Childe that she may want to look into the system manuals, or talk to someone from POS Solutions and/or Soft Touch to educate herself.

⁶ Seed money refers to the money used to start the PSJ.

24) On March 9, 2011, two agents interviewed Ms. Childe at the Everett Field Office. The agents advised Ms. Childe that she was free to leave at any time, and Ms. Childe said she understood. The agents asked Ms. Childe what her duties were at the Drift on Inn. Ms. Childe responded by saying, "Well, that's a hard question." Ms. Childe eventually said that she oversees the other accounting staff to make sure everything is done properly and also completes the payroll records. She also said she oversees the cage. Before the agents could say anything else, Ms. Childe described the Drift's records as "horrid" and "a fiasco."

25) The agent asked Ms. Childe to describe the process used when cash goes in and out of the cage. Ms. Childe told the agents that a paid-in or paid-out slip is used when an individual brings in cash or receives cash. She was asked for more detail regarding the Drift's process when soft count is done, and staff is bringing money to or from the vault. Ms. Childe explained that if there is an amount due back, then they will take the money out of the vault and bring it to the cage. She said a paid-in slip is written for the difference in the amount brought in for the due back. For example, if the amount due back was \$9,550, Ms. Childe would get \$10,000 from the vault and take it to the cage. Then a "paid-in" slip would be written for \$450, which is the difference between \$9,550 and \$10,000. Ms. Childe said they do this to make it a round number because they don't really have change in the vault.

26) The agents asked Ms. Childe how she could tell how much was going in or out of the cage, if they were not writing the actual amount on the paid-in or paid-out slips. Ms. Childe responded that there really was not a way to keep track. She did tell the agents that the vault log should have the actual amount going in and out of the vault. The agents asked Ms. Childe how often they count the cash in the vault and she told them that it should reflect whenever there is money put in or taken out. The agent brought up the incident that occurred on Monday, January 31, 2011, when she asked to count the cash in the vault. The vault count sheet said there was \$10,000 in the vault, but there was actually no cash in the vault at all. Ms. Childe said that it had not been updated because they were very busy over the weekend. The last entry or update on the vault when the agent checked was five days prior, on January 26, 2011, which was a Wednesday.

27) The agents asked Ms. Childe what Drift would do if there was no money in the vault, but there was a due-back. Ms. Childe said someone would go to the bank, or they would borrow the money from Emerald Downs. The agents asked her what she meant by borrowing money from Emerald Downs. Ms. Childe said there wasn't really documentation of this because they would write a check to Emerald Downs, and Emerald Downs would hold the check until Drift had the cash to pay them back. Ms. Childe said she knew when Emerald Downs would cash their checks, so she would just give them money back when it became available. The agents asked Ms. Childe how often Emerald Downs makes deposits, and she said that they don't do deposits over the weekend, but probably two or three times during each week.

28) The agents advised Ms. Childe that paid-in/out slips were for actual cash going in and out of the cage. They also explained that the Detail of Bank Reconciliation and Bank Deposit was a form for cash only, not chips.

29) On March 11, 2011, an agent contacted staff in the Commission's Financial Investigations Unit and provided to them a list of amounts that had been deposited into the Drift on Inn's bank account. The following loans had not been disclosed to the WSGC:

- 11/18/2010 - \$50,000
- 12/03/2010 - \$50,000
- 12/17/2010 - \$50,000

30) On April 12, 2011, an agent spoke with the licensee's bookkeeper, Lynn Varney, who works for an outside company named Quality Business Service that helps prepare the tax reports. Ms. Varney told the agent that she completed the first Drift PSJ reconciliation, and that thereafter Ms. Child took over.

31) The Agent reviewed Drift on Inn's gaming records for January 1, 2011 to February 28, 2011. This included tracking the funds from the Cardroom Control slips to the Prize Fund Accrual record, daily gaming sheets, Cash Vault Log and Bank Reconciliation. The agent matched and traced the several accounting documents including: Reconciliation Drop/Deposit, Master Game Report, PSJ Daily Record, Cardroom Control Slips, Daily Cardroom Summary, Card Tournament Summary and more. The agent compared the Vault Cash Log to the Reconciliation Drop/Deposit and several of the numbers did not correspond. For example:

- a) On January 1, 2011, the licensee reported on their Reconciliation Drop/Deposit they took \$11,438.03 cash from the vault. On the Vault Cash Log it shows \$2,500 going into the Vault and \$2,500 going out of the vault with an ending balance in the vault of \$0. The next entry on the Vault Cash Log is on 01/12/2011.
- b) On January 2, 2011, the licensee reported on their Reconciliation Drop/Deposit they took \$9,897.36 cash from the vault. The Vault Cash Log shows no money going out of the vault.
- c) On January 3, 2011, the licensee reported on their Reconciliation Drop/Deposit they took \$13,862.74 cash from the vault. The Vault Cash Log shows no money going out of the vault.
- d) On January 4, 2011, the licensee reported on their Reconciliation Drop/Deposit they took \$12,483.64 cash from the vault. The Vault Cash Log shows no money going out of the vault.
- e) On January 5, 2011, the licensee reported on their Reconciliation Drop/Deposit they took \$6,872.18 cash from the vault. The Vault Cash Log shows no money going out of the vault.

32) The licensee uses two different Cardroom Control Slips: Poker Rake, which is the record for their gross receipts; and PSJ, which is the record for prize funds collected. The Rake slips are blue in color and the PSJ slips are pink. The agent noticed that although the two slips were different colors, starting on January 10, 2011, both slips were labeled "Card Room Control Slip, Poker PSJ Collection." The agent advised Ms. Childe of the discrepancy, and Ms. Childe said she would fix it immediately. There were several additional discrepancies on the records.

Rather than using the records for actual cash, it seemed that the licensee was crossing cash amounts out to get things to balance on the Detail of Bank Deposit and Reconciliations, paid-in/paid-out slips and Master Game reports. The agent noted several errors for the months of January and February 2011.

33) There were two Notice of Errors (NOEs) over \$200 that were not reported to Commission staff within 24 hours:

a) On January 6, 2011, there was an error on the Four Card Poker table inventory slip. The licensee did not complete an NOE form and did not report this to the agent. The original amount on the table inventory slip was \$11,484 but it actually added to \$11,784, for a difference of \$300.

b) On February 24, 2011, there was an error on the Four Card Poker table inventory slip. The licensee completed an NOE form but did not report this to the agent. The original amount on the table inventory slip was \$1,915 but it actually added to \$915, for a difference of \$1,000.

34) On May 5, 2011, the agent began a Payroll Review Module. The following employees were still licensed through the Drift on Inn, but were terminated more than 10 days prior: Houng Doung, Ho S. Lee and Jin Li. The following employees did not have signature cards on file: Matthew Gamm, Michael Kimbrough, Daniel Navarro and Yuan Wwang. The following employees did not have pictures on file: Hoang Duong, Matthew Gamm, Michael Kimbrough, Raymond Shirley and Yuan Wang. Mathew Gamm did not have a copy of his license on file.

35) On May 10, 2011, the agent spoke with owner Mark Mitchell. He had previously told the agent that he was planning to close the Drift on Inn on May 1, 2011, so the agent asked him for an update on the status of closing. Mr. Mitchell informed the agent that they are going to try to stay open, even though they are struggling. The agent asked him if Ms. Childe had told him about the violations and administrative investigation that has been ongoing. Mr. Mitchell said he didn't know anything about it and asked what it was about. The agent explained that there have been several accounting, internal control and procedural discrepancies. The agent said that is why Commission staff had taken the amount of records they had to review. Mr. Mitchell immediately replied that they are having problems because Commission staff hadn't "educated" his employees on what to do. The agent advised him that Commission staff had given Ms. Childe, as well as others, the WAC rules to review,

36) Further records review revealed that Drift's PSJ funds were not the only funds deposited into the PSJ account, and that the PSJ funds were consistently not transferred to the cage or general account by the end of the month.

37) On Wednesday June 15, 2011, an agent received a phone call from Mark Mitchell, stating that they had closed their gaming operations on June 14th at approximately 6:00 p.m.

38) On June 16, 2011, agents met with Ms. Childe, Mark Mitchell, president of Drift, and William Hubbell, Floor Supervisor. The agents discussed recordkeeping violations with the Drift managers and asked Ms. Childe if she had a spreadsheet to show the PSJ distributions for games per the ICs, such as the Bad Beat Main, the Bad Beat Back Up 1, and the Bad Beat Back Up 2. Ms. Childe informed the agents that she did not have a spreadsheet to show the PSJ distributions per the ICs, and that no one had shown her the IC documents regarding the Drift PSJ scheme.

39) The agents reviewed the PSJ documents provided and observed the following:

- a) On at least 1/7/2011, the licensee failed to submit a written request for changes made to their PSJ internal control procedures associated with the PSJ and accounting for funds.
- b) On 1/7/2011, Drift opened a second PSJ account, transferred money from the first PSJ account into that account. The licensee subsequently transferred the money back to the first PSJ account. The following month, they used this second PSJ account to deposit \$260 each day from PSJ funds collected. They did not submit this change for approval, in violation of WAC 230-15-365.
- c) Licensee's must reconcile the account balance in their bank statement to the PSJ prize balance on their PSJ fund accrual record each month. "Reconcile" means the licensee must compare the two balances, resolve any differences, and document the comparison and the differences in writing. Licensees must keep the reconciliation as part of their records. The Drift on violated this rule in the following ways:
 1. On 2/9/2011, they made an electronic transfer from an account ending in 3876. According to their Accounting Manager, this is an account set up for use with the Emperor's Challenge or Texas Shootout.
 2. The licensee made monthly transfers for prizes paid from the cage but they did not always transfer the right amount, for some months, the transfer was greater than prizes paid and some months it was less.
 3. The licensee did not reconcile the account balance. The Accounting Manager said she could not "figure it out".
 4. In addition, on 11/27/2010, their PSJ collections were \$1,723.50. The Accounting Manager by mistake deposited these funds into the general account. The funds were transferred back to the PSJ account on 1/19/2011, in violation of WAC 230-15-400.
- d) From January 1, 2011 through March 31, 2011, the Drift "rake" Card room control Slip was titled "Poker PSJ Collection," in violation of WAC 230-15-725.

40) On or about September 20, 2011, Commission staff received a licensing application for a prospective buyer of the Drift on Inn. The Purchase and Sale documents included a purchase contingency that Drift on Inn possess active gambling licenses.

VIOLATIONS:

1) RCW 9.46.075(1), (7), and (8) provide the Commission may 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 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, 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;

(7) Makes a misrepresentation of, or fails to disclose, a material fact to the Commission;

(8) Fails to prove, by clear and convincing evidence, that it is qualified in accordance with the provisions of this chapter. RCW 9.46.153(1) provides that it shall be the affirmative responsibility of each 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.

Drift On Inn Road House Casino failed to comply with numerous gambling laws and rules. From at least December 2010 to January 14, 2011, the licensee was not able to reconcile their Player Supported Jackpot (PSJ) account. In addition, the licensee did not disclose all loans over \$10,000 to Commission staff, as required. The licensee was also not following the operating hours listed in their internal controls. In addition, the licensee did not keep all of their payroll documents up to date. The licensee issued large employee cash advances without accounting or tracking of funds and amounts. At least two Notice of Errors were not reported to Commission staff as required. The actual cash in the licensee's vault did not match the amount on the Vault Cash Log or the Detail of Bank Deposit and Reconciliation. Finally, accounting documents were mislabeled and not fully completed. Grounds exist to revoke Drift on Inn Road House Casino's licenses based on RCW 9.46.075 (1), (7) and (8), and WAC 230-03-085 (1) and (8).

2) WAC 230-03-085(1) and (8) provides that the Commission may revoke any license or permit when the licensee, or anyone holding a substantial interest in the licensee's business or organization: (The following subsections apply.)

(1) Commits any act that constitutes grounds for revoking licenses or permits under RCW 9.46.075; or

(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 gaming activities, as demonstrated through the person's prior activities, criminal record, reputation, habits, or associations.

The licensee violated gambling laws and Commission rules regarding accounting, disclosure and Internal Controls. The licensee also 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 gaming activities, as demonstrated through the licensee's repeated violations of record keeping and basic accounting practices. Grounds exist to revoke Drift on Inn Road House Casino's licenses based on 9.46.075 (1), (7) and (8), and WAC 230-03-085(1) and (8).

3) **WAC 230-06-083** provides that Card game licensees, except Class B or Class D must: (The following subsections apply.)

(1) Submit an add/transfer application and the required fees before allowing a licensed card room employee to begin working.

(2) Notify us in writing when a licensed card room employee no longer works for them. We must receive the notice at our Lacey office within ten days of the card room employee terminating employment.

Three employees had been terminated/were no longer working at the Drift and the licensee failed to notify Commission staff in writing that they were terminated, in violation of WAC 230-06-083.

4) **WAC 230-06-080** requires licensees to notify Commission staff in writing if any information filed with the application changes in any way within thirty days of the change.

Licensees must submit to us any new or updated documents and information, including the following:

- (a) Articles of incorporation or bylaws, or any other documents which set out the organizational structure and purposes; and
- (b) All oral or written contracts and agreements which relate to gambling activities or alter the organizational structure of the licensee's organization or business activities in Washington; and
- (c) All cash or asset contributions, draws from lines of credit, and loans (except those from recognized financial institutions) during any calendar year which by themselves or totaled together are more than ten thousand dollars. Cash or asset contributions do not include donations to licensed charitable or nonprofit organizations; and
- (d) Internal Revenue Service tax deductible status of contributions for charitable and nonprofit organizations.

The licensee had three loans in the amount of \$50,000 each that were not disclosed, in violation of WAC 230-06-080. The dates of the three loans were: 11/18/2010, 12/3/2010 and 12/17/2010.

5) WAC 230-15-025(1), (2), (3), (4), and (5) Hours of Play

(The following subsections apply.)

- (1) Licensees must not allow the use of their premises for card playing between the hours of 2:00 a.m. and 6:00 a.m. unless we approve different hours.
- (2) Licensees may request, in writing, different hours of operation. Once the request is received, we will consult with the local law enforcement agency having jurisdiction over the licensee's business and with other state agencies involved in regulation of the business. We may allow licensees to adjust closing hours, but licensees must:
 - (a) Open the food and/or drink business being stimulated to the public for business any time licensees are conducting card games; and
 - (b) Have a licensed card room employee on duty and in the licensed card game area at all times during the hours of operation of a Class E, Class F, or house-banked card games; and
 - (c) Observe a four-hour period of closure at the end of at least two business days a week before beginning the next period of operation; and
 - (d) Comply with any other terms and conditions we require.
- (3) We may deny the request for extended hours or revoke hours already approved if:
 - (a) The local law enforcement agency or a state agency objects; or
 - (b) We determine that the licensee has violated any provisions of chapter 9.46 RCW, any other commission rule, or any of the terms set forth in subsection of this section.
- (4) Licensees must submit all objections to revocations of operating hours in writing.
- (5) If requested, we allow the licensee an opportunity for a brief adjudicative proceeding (BAP) before denying or revoking the licensee's authorization for extended card game hours. An administrative law judge hears the BAP, under the provisions of Title 230 WAC and chapter 34.05 RCW.

Although the licensee was approved to open at 11:00 a.m., they were opening an hour early at 10:00 a.m., in violation of WAC 230-15-025.

6) WAC 230-15-050 Minimum cash on hand requirements

- (1) Card game agent licensees must have sufficient cash on hand to redeem all chips issued for play and pay out all prizes.
- (2) Within three hours of opening for the business day, at a time included in the internal controls, house-banked card game licensees must have at least the following minimum amount of cash on premises in their cage, safe, and vault combined:
 - (a) One thousand dollars for each house-banked table on the gambling floor; plus
 - (b) The amount of the largest single prize available excluding jackpot prizes when WAC rules require a deposit into a separate bank account (for example, player-supported jackpots and progressive jackpots). For example: If a house-banked card room has fifteen house-banked tables and a largest single prize of twenty-three thousand dollars, before opening,

the cage must have at least thirty-eight thousand dollars on hand: 15 tables x \$1,000 = \$15,000 + largest single prize of \$23,000 = \$38,000.

(3) Except for the restrictions on player-supported jackpot pay outs in WAC 230-15-405 and progressive jackpot pay outs in WAC 230-15-690, licensees may pay prizes by check if sufficient funds are available on deposit.

(4) Failure to keep funds to cash in chips, pay prizes, or redeem gambling related checks is prima facie evidence of fraud. Meeting the minimum cage cash amount does not relieve the licensee from the requirement to have sufficient funds available to redeem all chips and pay out all prizes.

The licensee failed to ensure they had enough money for the due back to the cage. The licensee sometimes borrowed cash from Emerald Downs or waited to get money from the bank. The licensee wrote checks knowing they would not cash them and then "re-buy" the checks back when they became available. Because of the licensee's practices and record keeping failures, was no way to tell if there was enough money in the cage within three hours of opening, in violation of WAC 230-15-050.

7) WAC 230-15-190 Preparing card game records

(1) Card game licensees must prepare all records in the format we require. Licensees must record the data in ink, on storage the media, or in other permanent form.

(2) Licensees must print, or back up in a permanent form, all the data kept in computer data bases monthly.

According to Ms. Childe, Drift employees filled in the numbers on the Vault Cash Log in order to make accounting records balance. On January 31, 2011, the Vault Cash Log showed there was \$10,000 in the vault, but there was actually no money in the vault, in violation of WAC 230-15-190.

8) WAC 230-15-365 Getting Approval for player-supported jackpots

(1) Class F or house-banked licensees must not operate a player-supported jackpot (PSJ) before we approve it in writing.

(2) To get a PSJ approved, licensees must make a written request, including, at least:

- (a) A detailed description of the card game associated with the PSJ; and
- (b) All rules of play; and
- (c) All internal control procedures associated with the PSJ and accounting for funds and prizes; and
- (d) The name of the prize fund custodian.

(3) Licensees must get Commission written approval before making any changes to the PSJ.

On at least 1/7/2011, the licensee failed to submit a written request for changes made to their PSJ internal control procedures associated with the PSJ and accounting for funds.

On 1/7/2011 Drift opened a second PSJ account, transferred money from the first PSJ account into that account, and then transferred the money back out of the second account. The following month, they used this second PSJ account to deposit \$260 each day from PSJ funds collected. They did not submit this change for approval, in violation of WAC 230-15-365.

9) WAC 230-15-400 requires that Class F or house-banked licensees must:

- (1) Maintain a separate bank account in a bank, mutual savings bank, or credit union in Washington state for holding player-supported jackpot (PSJ) funds; and
- (2) Deposit only funds from PSJs into the account; and
- (3) Not make payouts from the PSJ funds until licensees have first deposited the funds in the PSJ account. However, licensees may pay out prizes won during the gambling day and deduct administrative expenses before licensees deposit the funds; and
- (4) Transfer or deposit the PSJ funds into the PSJ account or with an armored car service no later than the second banking day after the close of business; and
- (5) Identify all deposits or transfers of PSJ funds by the type of PSJ fund and date of collection. Licensees must keep the validated deposit receipts or transfer information as a part of their required daily records or have on-line access to their player-supported jackpot bank accounts; and
- (6) Transfer the amount from the PSJ account to the cage or general account before the end of the month if PSJ prizes are paid from the cage or general account. The licensee must keep the transfer information as part of the written records; and
- (7) Reconcile the account balance in their bank statement to the PSJ prize balance on their PSJ fund accrual record each month. "Reconcile" means the licensee must compare the two balances, resolve any differences, and document the comparison and the differences in writing. Licensees must keep the reconciliation as part of their records.

The Drift On Inn violated this rule in the following ways:

- a. On 2/9/2011, they made an electronic transfer from an account ending in 3876. According to their Accounting Manager, this account is an account set up for use with the Emperor's Challenge or Texas Shootout.
- b. The licensee made monthly transfers for prizes paid from the cage but they did not always transfer the right amount. For some months, the transfer was greater than prizes paid and for some months, it was less.

- c. The licensee did not reconcile the account balance. The Accounting Manager said she could not "figure it out."

In addition, on 11/27/2010, their PSJ collections were \$1,723.50. The Accounting Manager mistakenly deposited these funds into the general account. The funds were transferred back to the PSJ account on 1/19/11, in violation of WAC 230-15-400.

10) WAC 230-15-425 Internal controls

(1) House-banked card game licensees must:

- (a) Adopt internal controls in the format we require; and
- (b) Ensure that all games are closely controlled and operated in accordance with gambling laws, our rules, and the house-banked card game licensee's internal controls (ICs); and
- (c) Follow all ICs at all times; and
- (d) Have all ICs available to us at all times at the licensed business premises; and
- (e) Have the ICs available to card room employees for their individual functions; and
- (f) Ensure that card room employees are knowledgeable in all accounting and internal control procedures for their individual functions and ensure that employees follow the ICs.

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

On 1/7/2011 Drift on Inn changed their PSJ scheme and included a distribution of PSJ funds into a Bad Beat Main, the Bad Beat Back-Up 1, and the Bad Beat Back-Up 2. They did not keep an accounting of these separate accounts as described in their internal controls. The Accounting Manager said no one showed her the new PSJ scheme, in violation of WAC 230-15-425.

11) WAC 230-15-495 provides that licensees must clearly mark the outside of the chip tray with the gambling table number which it matches. When opening gambling tables, house-banked card game licensees must follow these steps:

(1) A floor supervisor must unlock the table inventory container (chip tray) and take out the table inventory slip (opener); and

(2) The floor supervisor and the dealer assigned to the gambling table must:

- (a) Count the contents of the chip tray; and
- (b) Verify the count against the opener; and

(3) The dealer and the floor supervisor must then sign the opener, confirming the information on the opener is correct; and

(4) The dealer must immediately deposit the opener in the drop box attached to the gambling table; and

(5) If there is any discrepancy between the amount of gambling chips and coins counted and the amount of the chips and coins recorded on the opener:

- (a) The floor supervisor must report immediately to the shift manager, if on duty or when the manager arrives; and
- (b) The floor supervisor on duty must complete and sign a notification of error slip; and
- (c) The dealer and security must verify and sign the notification of error slip; and
- (d) Security must transport the duplicate of the notification of error slip to the accounting department or the cashier's cage; and
- (e) The dealer must drop the original notification of error slip in the drop box attached to the gambling table; and
- (f) The accounting department must keep a copy of the notification of error slip in a log in the format we require; and
- (g) Licensees must notify us within twenty-four hours of errors of two hundred dollars or more, or if there is a pattern of shortages.

On at least 1/6/2011 and 2/8/2011, there were two errors of \$200 or more that were not reported to Commission staff, in violation of WAC 230-15-495.

12) WAC 230-15-550 provides that house-banked card game licensees must closely control and keep records documenting all receipts and disbursements of cash, cash equivalents, chips, and coin related to the operation of card games.

The licensee had funds taken from the vault per the Bank Reconciliation. However, these funds did not show as being in the vault per the Vault Cash Log in violation of WAC 230-15-550.

13) WAC 230-15-730(2), (3), and (4) provide that licensees must keep the following accounting records:

- (1) House-banked card game licensees must keep and maintain a complete set of accounting records which we have approved before licensure. These records must include all receipts and disbursements of the licensee, including, at least, those related to gambling activities.

Revenue, costs, and expenses.

- (2) Licensees must keep legible, accurate, and complete records of all transactions relating to the revenues, costs, and expenses of the gambling operation. Licensees must keep these records in a format that ensures consistency, comparability, and effective disclosure of financial information.

Accounting system.

- (3) Licensees must keep an accounting system on a double entry method of accounting with transactions recorded on an accrual basis and in conformity with United States' Generally Accepted Accounting Principles (GAAP).

Recordkeeping.

- (4) Licensees must keep detailed, supporting, and subsidiary records including, at least:
- Records of all players' checks initially accepted, deposited, and returned as "uncollected," and ultimately written off as "uncollectible"; and
 - Records of investments in property, including, at least, equipment used directly in connection with the gambling operation; and
 - Records of amounts payable by the gambling operation; and
 - Records which identify the purchase, receipt, and destruction of all cards and gambling chips used in wagering; and
 - Records of services provided for the operation of gambling activities, for example, service provided by gambling service suppliers; and
 - Master game reports that reflect drop and win amounts for each table, for each game agent.
- These records must cover at least each period for which the drop boxes are removed, or at the minimum, the period of each gambling day.

The licensee gave several employee advances to card room employee Michael Mitchell but did not have a system set up for tracking advances. General accounting records did not match original slips, in violation of WAC 230-15-730. For example, the Vault Cash Log amount did not match the Reconciliation Drop/Deposit forms, and Drift did not keep and maintain all card game records in the format required.

14) WAC 230-15-735 Keeping employee licensing records

Licensees must keep a records system on the business premises that ensures all applicable employees have met licensing requirements. The records must include photocopies of all current employees' licenses.

One of the licensee's employees' did not have a photocopy of his license in his file, in violation of WAC 230-15-735.

15) WAC 230-15-745 provides house-banked card game licensees must keep signature cards in the format we require for all licensed card room employees.

- The card must be prepared in the presence of a member of the accounting department, who must review a picture identification card and verify the signer's identity.
- Licensees must keep completed cards in a signature card file, sorted by department and listed alphabetically by game. Licensees must review and adjust the signature records as needed to reflect changes of personnel.
- Licensees must securely store signature cards in the accounting department.
- The cashier's cage must keep a copy of each signature card and cage personnel must use it to verify signatures.
- Licensees must retain the signature records for a period of at least one year after employment ends.

The licensee had four current employees without signature cards on file in the cashier's cage, in violation of WAC 230-15-750.

16) WAC 230-15-750 provides that

- (1) House-banked card game licensees must document each transfer of cash, coins, or chips and verify the transfer with the signature(s) of individual(s) responsible for the records.
- (2) By signing documents, records, and forms, signers are indicating that they:
 - (a) Have prepared them according to the requirements of the accounting system and internal controls; and/or
 - (b) Attest to the accuracy of the information recorded for which they are responsible.
- (3) Signers must sign immediately next to, or above, the clearly printed or preprinted title on all forms, records, and documents.
- (4) Signatures must, at least, be the signer's first initial and last name, for example, "B. Smith," and the signer's employee number.

For the month of January 2011, there were at least 24 Drift Detail of Bank Deposit and Reconciliation records completed inaccurately or incomplete. Although the record states the licensee received money from the vault, the vault record did not show there was any money going into the cage, in violation of WAC 230-15-750.

There were over 300 Drift paid-in/out slips not filled out completely, in violation of WAC 230-15-750.

For at least February 23, 2011, the Cardroom Control slips were not completely filled out, in violation of WAC 230-15-750.

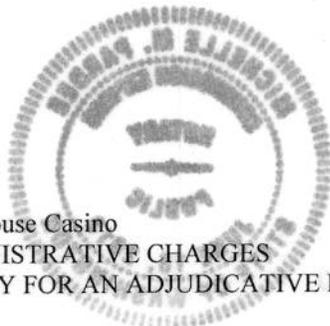
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III

V.

The charges specified in paragraph IV above constitute grounds for revoking the gambling licenses issued to the Drift on Inn Road House Casino under RCW 9.46.075 and WAC 230-03-085.

VI.

The licensee shall have the opportunity to have an Adjudicative Proceeding, which includes a hearing on the alleged violations. In order to begin an Adjudicative Proceeding, the enclosed APPLICATION FOR ADJUDICATIVE PROCEEDING AND 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 mailing of this notice. Failure to return this document will result in the entry of a DEFAULT ORDER pursuant to RCW 34.05.440 and WAC 230-17-010, the imposition of the penalty set out above (REVOCATION OF YOUR LICENSES) or one of lesser degree and shall constitute a waiver of any further rights to a hearing or review in this matter.

STATE OF WASHINGTON)

) ss.

COUNTY OF THURSTON)

Rick Day, being first duly sworn on oath, deposes and says: That he has read the foregoing Notice of Administrative Charges and Opportunity for Adjudicative Proceeding, knows the contents thereof, and believes the same agent to be true, and that he is the Director of the Washington State Gambling Commission and in that capacity has executed said Statement of Charges.

Rick Day
Rick Day, Director

SUBSCRIBED AND SWORN TO before the agent this 29 day of September, 2011.

Michelle M. Pardee
NOTARY PUBLIC in and for the State of Washington residing at: Lacey

