

Received

JAN 24 2014

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

Gambling Commission
Comm. & Legal Division

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

PANDA WOKS RESTAURANT
Pasco, Washington

Licensee.

OAH Docket No. 2013-GMB-0074
GMB No. CR 2013-01639

NOTICE OF CASE CLOSURE

TRANSLATION INTO CHINESE:

If You Need A Chinese Translation Of This Decision, Call:
Evergreen Interpreting Services at (360) 954-5114

Administrative Law Judge John M. Gray conducted a telephonic status conference in this matter on January 22, 2014.

Gregory Rosen, Assistant Attorney General, Attorney General's Office, appeared and represented the Washington State Gambling Commission ("Commission").

Panda Woks Restaurant ("Panda Woks"), the licensee, did not appear or participate in the Status Conference.

Thomas Wu, Chinese interpreter with Evergreen Interpreting Services, appeared and was prepared to serve as the interpreter in this Status Conference. Panda Woks had requested an interpreter at the same time it requested an adjudicative proceeding after the Commission served the Notice of Administrative Charges and Opportunity for Adjudicative Hearing on Panda Woks.

Notice of the Status Conference was previously served on the parties by United States Mail on January 15, 2014, to the addresses on file with the Office of Administrative Hearings ("OAH").

On January 12, 2014, Melinda Froud, Lead Staff Attorney for the Washington State Gambling Commission, submitted a letter to the OAH requesting that a Status Conference be scheduled as the earliest possible date to address the issue that the Tribunal may lack jurisdiction to decide this case because of what appears to be an untimely filed appeal.

The Commission presented facts that Maureen Pretell, with the Commission, mailed the Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding to each party, including Panda Woks, on September 9, 2013, by both regular and certified United States mail. The Commission did not serve Panda Woks by personal service.

Panda Woks requested a hearing. The Commission received Panda Woks' Request for Administrative Hearing and Interpreter on October 3, 2013. The Commission's practice is to date stamp all incoming mail and faxes on the date the document actually arrives. Thus, the Commission actually received the Request for Administrative Hearing and Interpreter on October 3, 2013.

WAC 230-17-010(2) and (3) provide as follows:

- (2) We must receive the request from the applicant, licensee, or permittee at our administrative office within:
 - (a) Twenty-three days after we mail by regular mail the notice of administrative charges; or
 - (b) Twenty days after they receive by certified mail the notice of administrative charges; or

(c) Twenty days after we personally serve the notice of administrative charges.

(3) If applicants, licensees, or permittees do not file requests in the time required, then they waive their right to a hearing. They are in default, as defined in RCW 34.05.440, and the commissioners may take action against them up to the maximum penalty stated in the notice of administrative charges.

RCW 34.05.440(1) provides as follows:

(1) Failure of a party to file an application for an adjudicative proceeding within the time limit or limits established by statute or agency rule constitutes a default and results in the loss of that party's right to an adjudicative proceeding, and the agency may proceed to resolve the case without further notice to, or hearing for the benefit of, that party, except that any default or other dispositive order affecting that party shall be served upon him or her or upon his or her attorney, if any.

WAC 10-08-080 tells how to compute time to determine whether a filing is timely, as well as for other purposes:

In computing any period of time prescribed or allowed by any applicable statute or rule, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded in the computation.

Based on these statutes and administrative rules, I find that the Commission did not receive Panda Wok's Request for an Administrative Hearing until 24 days after the Commission served Panda Woks with the Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding. Although only one day late, Panda Woks' Request for an Administrative Hearing was not timely filed. There is no authority for acceptance of a late-filed appeal. I conclude Panda Woks is in default.

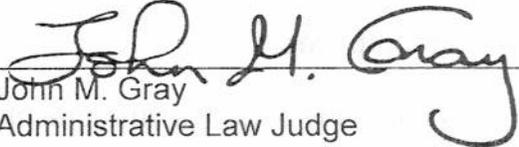
ORDER

Pursuant to WAC 230-17-010(3) and RCW 34.05.440(1), Panda Woks has defaulted. Therefore, this case is closed. The Commission may, pursuant to RCW 34.05.440(1) and WAC 230-17-010(3), proceed with action against Panda Woks' gambling license.

The hearing scheduled in this matter has been stricken and removed from the Office of Administrative Hearings docket. There will be no hearing on Wednesday, January 29, 2014. This case is now closed.

The Office of Administrative Hearings will take no further action in this matter. The case file will be returned to the Commission.

Dated: January 23, 2014


John M. Gray
Administrative Law Judge

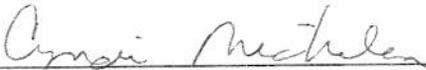
CERTIFICATION OF MAILING IS ATTACHED

Certificate of Service – OAH Docket No. 2013-GMB-0074

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

Ngun C. Lau Panda Woks Restaurant 1800 West Lewis Street Pasco, WA 99301	<input checked="" type="checkbox"/> First Class US mail, postage prepaid <input type="checkbox"/> Certified mail, return receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> 1st Class, postage prepaid, Certified mail, return receipt
Gregory J. Rosen Assistant Attorney General Office of the Attorney General PO Box 40100 Olympia, WA 98504-0100	<input checked="" type="checkbox"/> First Class US mail, postage prepaid <input type="checkbox"/> Certified mail, return receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> 1st Class, postage prepaid, Certified mail, return receipt
Washington State Gambling Commission ATTN: Legal Department PO Box 42400 Olympia, WA 98504-2400	<input checked="" type="checkbox"/> First Class US mail, postage prepaid <input type="checkbox"/> Certified mail, return receipt <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> 1st Class, postage prepaid, Certified mail, return receipt

Date: January 23, 2014



Cyndi Michelena
Office of Administrative Hearings

