



Chinese Gamblers – the Rewards and Challenges Facing Las Vegas Casinos

By Jeffrey B. Setness

I. FINANCIAL IMPORTANCE OF CHINESE GAMBLERS

The importance of Chinese gamblers to the economic well-being of Las Vegas casinos cannot be overstated. Professor I. Nelson Rose in his article entitled “What China means to Las Vegas” pointed out that “Baccarat, as we all know, is by far the favorite casino game for Chinese bettors. There are only about 300 baccarat tables in Nevada. Yet, in 2013, Nevada casinos won a total of almost \$1.5 billion from baccarat.”¹

This economic reality is borne out by the increase in gambling revenue realized by Las Vegas casinos as a result of Chinese gamblers playing baccarat. In a report entitled “Shill Game - Vegas casino’s attempt to collect a debt exposes world of Chinese high-rollers,” Reuters noted that “Over the past decade, as overall gambling revenue on the Strip stagnated, baccarat winnings for casinos nearly doubled to \$1.3 billion — 40% of take from all games, state records show. Asians account for as much as 90% of baccarat gambling in Las Vegas, with the majority being Chinese, . . .”²

However, along with the rewards Chinese gamblers bring to Las Vegas casinos, there are some daunting challenges casinos must confront and resolve. This article will examine some of those challenges.



II. CHALLENGES ASSOCIATED WITH CHINESE GAMBLERS

A. Challenge No. 1 – Extending Credit to Chinese Gamblers

Before a Nevada casino can extend credit to a gambler, regardless of whether the gambler is from Los Angeles or Shanghai, the casino must comply with Nevada Gaming Commission (“NGC”) Regulation 6.120(2) which provides, in pertinent part, that “Each licensee shall: (a) [d]ocument, prior to extending credit, that it: (1) [h]as received information from a bona fide credit-reporting agency . . . ; or (2) [h]as received information from a legal business . . . ; or (3) [h]as received information from a financial institution . . . ; or (4) [h]as examined records of its previous credit transactions with the patron . . . ; or (5) [w]as informed by another licensee that extended gaming credit to the patron . . . ; or (6) [i]f no credit information was available from any of the sources listed in subparagraphs (1) through (5) for a patron who is not a resident of the United States, the licensee has received, in writing, information from an agent or employee of the licensee who has personal knowledge of the patron’s credit reputation or financial resources . . .”³

In sum, NGC regulations require casinos to take certain steps to assess and document each patron’s credit-worthiness prior to extending credit. A casino’s compliance with NGC Regulation 6.120(2) may be easier said than done. Assuming the gambler from China does not walk into the casino with a suitcase full of cash, how does a casino establish the credit worthiness of someone who lives and works in a country that is over 6,000 miles away and who may not read or speak English? In an article entitled “Credit Scores Come to Debt-Leery Chinese,” Bruce Einhorn noted that “. . . most Chinese don’t have credit scores, . . .”⁴ That being the case, how does a casino comply with NGC Regulation 6.120(2) and make the decision to extend substantial amounts of credit to individuals from foreign countries?

For those of us who have gone through the harrowing experience of applying for a home loan in post-recession Las Vegas, who can forget the endless forms and documentation required to buy a home. In light of this experience, one may conclude that Nevada casinos would conduct an equally rigorous and extensive investigation of a patron’s credit prior to extending credit -sometimes in the seven figures. In addition, what procedures do casinos employ to ensure that a person who may not read or write English knowingly completes and signs a casino credit application that may be requesting over \$1 million in credit?

B. Challenge No. 2 - Collecting from Chinese Gamblers



Chinese Law Limits How Much Money a Chinese Citizen Can Take Out of China Annually

Chinese law prohibits their citizens from transferring more than \$50,000 out of the country per year. On January 5, 2007, China's State Administration of Foreign Exchange ("SAFE") issued a pronouncement entitled "Detailed Rules for Implementing the Measures for the Administration on Individual Foreign Exchange," which states, in pertinent part, "... The administration of total annual amount shall apply to individual settlement and domestic individual purchase of foreign exchange. The total annual amount shall be the value equivalent to USD \$50,000 for each person every year."⁵

The fact that China limits the amounts Chinese citizens can take out of their country on an annual basis should come as no surprise to casinos in Las Vegas especially those who operate casinos in Asia. These currency control regulations are well known and have been the subject of various reports and news articles. For example, in an article entitled "China Loosens Currency Controls for Multinationals," The Wall Street Journal reported that "China for years has maintained a 'closed' capital account, meaning companies, banks and individuals can't move money in or out of the country except in accordance with strict rules. The limit for individuals is currently \$50,000 a year,..."⁶



Gambling is Illegal in China

In addition to the China's capital control regulations, China's criminal laws and Public Security Administrative Punishments Law make it a criminal offense to gamble. Article 303 of the Criminal Law of the People's Republic of China states that "Whoever, for the purpose of profit, gathers people to engage in gambling, runs a gambling house or makes gambling his profession shall be sentenced to fixed-term imprisonment of not more than three years..."⁷ In testimony before the U.S. - China Economic and Security Review Commission on June 27, 2013, Professor I. Nelson Rose stated, in pertinent part, that "As an example, gambling in mainland China used to be punishable by death. Today, an operator can still get three years in prison. But the PRC still punishes regular citizens for merely making bets."⁸

Given the fact that gambling is illegal in China, it would seem that the Chinese government may not be thrilled with the prospect of Chinese citizens transferring substantial sums of money out of China to pay gambling debts owing to Las Vegas casinos.



China's Recent Crackdown on Money Transfers

On December 28, 2014, the Ministry of Public Security of the People's Republic of China issued an official pronouncement which stated, in pertinent part, that "The government Public Security Agency... cracked down two large cross-border criminal gangs operating global gambling; arrested 39 criminal suspects including shareholders of foreign casinos, senior junket agents and individuals who help to transfer and exchange gambling fund; froze 4,000 bank accounts involving the crimes;..."⁹

On May 5, 2015, SAFE issued a pronouncement which states, in pertinent part, that "Five Departments including People's Bank of China, ... jointly launched a special crackdown on overseas money transfer through offshore companies and underground banks... The operation aims to stop illegal money transfers and illicit foreign exchange transactions."¹⁰

It appears that the Chinese government is doing everything in its power to stem the flow of cash out of China. In a Wall Street Journal article entitled "China Police Reveal Busted Illegal Banking Operation," Mark Magnier pointed out that "In August, China's Ministry of Public Security said it was stepping up a campaign against underground banks, contending that 'gray capital' spirited out of the country had worsened the nation's stock-market tumult."¹¹



C. Challenge No. 3 – Casinos Allowing Wealthy Patrons to Gamble Anonymously

In Nevada, it is a well-known fact of life that casinos are required to comply with federal anti-money laundering laws including maintaining effective anti-money laundering programs¹² and the reporting of suspicious transactions.¹³ A casino is required to file a Suspicious Activity Reports (SAR) for transactions it knows, suspects, or has reason to suspect: . . . (2) were designed to evade the reporting/recordkeeping requirements of the BSA; or (3) had no business or apparent lawful purpose . . .”¹⁴ An obvious question is whether or not a casino is obligated to report when a substantial amount of credit granted to one customer is utilized by another customer with the result of the casino creating no documentation identifying the actual gambler.

In September 2015, the Financial Crimes Enforcement Network, a bureau of the U.S. Department of the Treasury, charged with implementing, administering, and enforcing compliance with the Bank Secrecy Act, issued a Consent to the Assessment of Civil Money Penalty with Caesars Palace which stated, in pertinent part as follows:

. . . Caesars maintained severely deficient internal controls on its private gaming salons, which are exclusive gaming areas authorized under Nevada law that are reserved only for Caesars’ wealthiest clientele. Despite the obvious elevated risks presented in these salons, which openly allowed wealthy patrons to gamble anonymously, Caesars failed to impose appropriate anti-money laundering scrutiny on its private gaming salons to meet these heightened risks. This created the potential for the

individuals allowed to gamble in these salons to circumvent certain BSA recordkeeping and reporting requirements. . . .

. . . Caesars permitted the guests of private gaming salon patrons to play using the primary patron’s credit or front money instead of their own (*i.e.*, “team play”). This potentially enabled guests to conceal their identity and transactions, thereby frustrating recordkeeping and reporting requirements. 31 C.F.R. §§ 1021.410 and 1021.311. By failing to identify these guests, Caesars allowed some of the guests to gamble significant sums anonymously. Caesars also would not have been able to identify these anonymous guests as a subject in a SAR had the casino filed SARs to report their team play as suspicious.¹⁵

The takeaway from this penalty is that the federal government believes that it is a violation of the anti-money laundering laws and regulations for one person to gamble utilizing another person’s credit.



D. Challenge No. 4 – Criminal Prosecutions and the Shill Gambler

For those who were not born and raised in Nevada, it may come as a surprise that someone could be convicted of a felony and be sent to prison for not paying a gambling debt owing to a casino. However, a review of Nevada Revised Statute 205.130 will make clear that there are severe criminal sanctions for failing to pay a debt owing to a casino including imprisonment.

In some cases, casinos in Las Vegas refer allegedly delinquent patrons to the Clark County District Attorney's Office for criminal prosecution. In one such prosecution, the defense claimed in court pleadings that "On approximately 34 different occasions, commencing on or about June 13, 2009 and continuing to on or about August 18, 2012, [a Nevada casino] sought and used [defendant's] assistance to enable high-stakes baccarat players to take out large credit markers in [defendant's] name, rather than their own, and gamble large amounts of money at the [Nevada casino] with a paper trail only in [defendant's] name."¹⁶

One of the elements the government must prove to establish a violation of NRS 205.130, is that the skill gambler had an intent to defraud. In *Zahavi v. State of Nevada*, 343 P.3d 595, 602 (2015) the Nevada Supreme Court held that "the element of 'intent to defraud' . . . may be negated by a showing that the casino had knowledge that the person obtaining the marker did not have sufficient funds to cover the marker at the time it was executed." Thus, in cases where a casino was aware that the person signing the marker was not the real gambler, the District Attorney's Office may run into difficulty proving this element of the offense.

A defendant's claim that he or she was a "skill gambler" apparently is not that unusual in the world of Chinese high-rollers here in the Silver State. According to the Reuters report mentioned earlier, "In interviews, Las Vegas industry executives, casino floor employees and independent agents said the use of skills is a frequent practice at some casinos catering to high-stakes Chinese players."¹⁷

III. CONCLUSION

With the world's largest population estimated to be well over 1 billion people, one should expect that the number of citizens from China traveling to Las Vegas will only increase. Therefore, it is advisable that Nevada casinos deal with and resolve these challenges sooner rather than later.



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- ¹ Professor I. Nelson Rose, *What China Means to Las Vegas*, Asian Gaming Lawyer, May 2017.
- ² Joel Schechtman and Koh Gui Qing, *Shill Game - Vegas casino's attempt to collect a debt exposes world of Chinese high-rollers*, Reuters, September 30, 2016.
- ³ Nev. Gaming Comm'n Reg. 6.120(2).
- ⁴ Bruce Einhorn, *Credit Scores Come to Debt-Leery Chinese - To boost consumption, the government wants more borrowers*, Bloomberg Business Week, July 2, 2015.
- ⁵ China's State Administration of Foreign Exchange, Detailed Rules for Implementing the Measures for the Administration on Individual Foreign Exchange, January 5, 2007.
- ⁶ Esther Fung, *China Loosens Currency Controls for Multinationals*, The Wall Street Journal, April 26, 2014.
- ⁷ Article 303 of the Criminal Law of the People's Republic of China.
- ⁸ Professor I. Nelson Rose, *Macau and China's Gambling Problems*, Testimony before the U.S. - China Economic and Security Review Commission, June 27, 2013.
- ⁹ Ministry of Public Security of the Peoples Republic of China, December 28, 2014.
- ¹⁰ China's State Administration of Foreign Exchange, May 5, 2015.
- ¹¹ Mark Magnier, *China Police Reveal Busted Illegal Banking Operation*, Wall Street Journal, November 20, 2015.
- ¹² 31 U.S.C. § 5318(h), § 5322(b), 31 C.F.R. § 1022.210; 18 U.S.C. § 5312(a)(2), 31 C.F.R. § 103.11(n).
- ¹³ 31 C.F.R. § 103.21.
- ¹⁴ 31 U.S.C. § 5318(g).
- ¹⁵ *In the Matter of Desert Palace, Inc. dba Caesars Palace*, Number 2015-10, Financial Crimes Enforcement Network, Consent to the Assessment of Civil Money Penalty, September 8, 2015
- ¹⁶ *State of Nevada vs. Meie Sun*, Case No. 15F1598X, Defendant Meie Sun's Motion Requesting Court Issuance Of A Subpoena Duces Tecum For The Custodian Of Records Of The Las Vegas Sands LLC to Appear at the Preliminary Hearing And Produce Documents (NRS 174.305, 174.315(6), 174.335(1), And 171.196), filed December 8, 2015
- ¹⁷ Joel Schechtman and Koh Gui Qing, *Shill Game - Vegas casino's attempt to collect a debt exposes world of Chinese high-rollers*, Reuters, September 30, 2016

