

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
FINANCIAL CRIMES ENFORCEMENT NETWORK**

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| IN THE MATTER OF: |) | |
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| |) | |
| Hong Kong Entertainment |) | Number 2015-07 |
| (Overseas) Investments, Ltd. |) | |
| d/b/a Tinian Dynasty Hotel & Casino |) | |
| |) | |
| Northern Mariana Islands |) | |

ASSESSMENT OF CIVIL MONEY PENALTY

I. INTRODUCTION

The Financial Crimes Enforcement Network (“FinCEN”) has determined that grounds exist to assess a civil money penalty against Hong Kong Entertainment (Overseas) Investments, Ltd. d/b/a Tinian Dynasty Hotel & Casino (“Tinian Dynasty” or “the Casino”) pursuant to the Bank Secrecy Act (“BSA”) and regulations issued pursuant to that Act.¹

FinCEN has the authority to investigate casinos for compliance with and violation of the BSA pursuant to 31 C.F.R. § 1010.810, which grants FinCEN “[o]verall authority for enforcement and compliance, including coordination and direction of procedures and activities of all other agencies exercising delegated authority under this chapter[.]”

Tinian Dynasty is a casino located on the island of Tinian in the Commonwealth of the Northern Mariana Islands. Established in April 1998, the Casino offers a wide range of casino

¹ The Bank Secrecy Act is codified at 12 U.S.C. §§ 1829b, 1951-1959 and 31 U.S.C. §§ 5311-5314, 5316-5332. Regulations implementing the Bank Secrecy Act appear at 31 C.F.R. Chapter X.

gaming including blackjack, Baccarat, roulette, and slots. Tinian Dynasty was a “financial institution” and a “casino” within the meaning of the BSA and its implementing regulations during the time relevant to this action. 31 U.S.C. §§ 5312(a)(2) and (a)(6); 31 C.F.R. §§ 1010.100(t), (zz), and (hhh).

II. DETERMINATIONS

Tinian Dynasty willfully violated the BSA’s program and reporting requirements from 2008 through the present.² As described below, Tinian Dynasty (a) failed to develop and implement an anti-money laundering program, 31 U.S.C. § 5318(h) and 31 C.F.R. § 1021.210; (b) failed to report transactions involving currency in amounts greater than \$10,000, in violation of 31 U.S.C § 5313 and 31 C.F.R. § 1021.311; and (c) failed to detect and adequately report suspicious activities and transactions in a timely manner, in violation of 31 U.S.C. § 5318(g) and 31 C.F.R. § 1021.320.

A. Violations of the Requirement to Establish and Implement an Effective Anti-Money Laundering Program

The BSA and its implementing regulations require casinos to develop and implement written anti-money laundering (“AML”) programs reasonably designed to assure and monitor compliance with the BSA. 31 U.S.C. §§ 5318(a)(2), 5318(h); 31 C.F.R. § 1021.210(b)(1).

Tinian Dynasty was required to implement an AML program that, at a minimum, provided for:

² In civil enforcement of the Bank Secrecy Act under 31 U.S.C. § 5321(a)(1), to establish that a financial institution or individual acted willfully, the government need only show that the financial institution or individual acted with either reckless disregard or willful blindness. The government need not show that the entity or individual had knowledge that the conduct violated the Bank Secrecy Act, or that the entity or individual otherwise acted with an improper motive or bad purpose.

(a) a system of internal controls to assure ongoing compliance; (b) independent testing of the casino's AML compliance program by casino personnel or parties external to the casino; (c) training of personnel; (d) the designation of an individual or individuals responsible for assuring day-to-day compliance; (e) procedures for using all available information to determine and verify name, address, social security or taxpayer identification number, and other identifying information for a person, to the extent determining and verifying the information is otherwise required under the BSA; (f) procedures for using all available information to determine the occurrence of any transactions or patterns of transactions required to be reported as suspicious; (g) procedures for using all available information to determine whether any records must be made and maintained pursuant to the BSA; and (h) for casinos with automated data processing systems, use of such systems to aid in assuring compliance. 31 C.F.R. § 1021.210(b)(2).

Tinian Dynasty failed to develop and implement an AML program to assure ongoing compliance with the BSA. No member of Tinian Dynasty staff was delegated responsibility for day-to-day compliance with the BSA, and the Casino failed to develop and implement policies, procedures, and internal controls designed to ensure compliance with the BSA. Tinian Dynasty never conducted any independent testing of the Casino's systems to ensure compliance and did not have sufficient procedures in place to detect or report suspicious transactions. Further, casino personnel were not trained in BSA recordkeeping requirements or in identifying, monitoring, and reporting suspicious activity.

Tinian Dynasty's failure to develop and implement an anti-money laundering program contributed to its willful failure to file CTRs at the request of undercover IRS-CI agents posing as Russian businessmen, as detailed below, and its willful failure to report as suspicious the undercover agents' requests that their transactions go unreported. The Casino's failure to

develop and implement an anti-money laundering compliance program also contributed to its willful failure to file CTRs on other transactions over a period of nearly four years. During an April 29, 2013 search conducted at Tinian Dynasty, law enforcement agents discovered a stack of more than 2,000 unfiled CTRs. When asked about these CTRs, the Casino's Chief Auditor advised that he assumed that filing them was a low priority because nobody ever noticed that they were not being filed.

B. Violation of the Requirement to Report Currency Transactions

The BSA and its implementing regulations require casinos to report transactions that involve either "cash in" or "cash out" of more than \$10,000 during a single gaming day. 31 C.F.R. § 1021.311. A casino must aggregate transactions in currency – treat the transactions as a single transaction – if the casino has knowledge that the transactions are conducted by, or on behalf of, the same person. 31 C.F.R. § 1021.313. A casino must report transactions in currency through the filing of currency transaction reports.

From at least May 3, 2012, through March 4, 2013, Tinian Dynasty engaged in a pattern of accommodating gamblers who desired to conduct transactions with large amounts of cash without the Casino reporting their transactions. During a criminal investigation, undercover agents, posing as casino patrons, told Tinian Dynasty's Casino Manager and its VIP Services Manager that they planned to gamble large amounts of money and expressly requested that the Casino not report their gaming transactions to the government. On May 3, 2012, the VIP Manager, who was responsible for implementing casino marketing programs and servicing the Casino's most valued customers, assured an undercover agent posing as the New York-based representative of a Russian businessman that his client could bring large amounts of currency and that the Casino would not file reports related to the client's activity at the Casino. When two

other undercover agents (“UCA-1” and “UCA-2”) arrived at the Casino on February 28, 2013, the VIP Manager and other Casino employees assisted them with the following transactions, each of which required the filing of a CTR:

- On February 28, 2013, the VIP Manager assisted UCA-1 in purchasing a casino voucher in the name of UCA-2 for \$30,000 in U.S. currency. Tinian Dynasty accepted the cash and did not file a CTR.
- On February 28, 2013, the VIP Manager assisted UCA-2 in purchasing a casino voucher for \$15,000 in U.S. currency. Tinian Dynasty accepted the cash and did not file a CTR.
- On February 28, 2013, UCA-1 purchased a casino voucher in the name of UCA-2 for \$40,000 in U.S. currency. Tinian Dynasty accepted the cash and did not file a CTR.
- On February 28, 2013, after gambling, UCA-1 and UCA-2 gave vouchers and chips to the VIP Manager in exchange for a casino voucher in the amount of \$60,000 and \$16,500 in cash. Tinian Dynasty conducted the transaction and did not file a CTR in connection with the \$16,500 cash transaction.
- On March 2, 2013, UCA-1 purchased a casino voucher in the name of UCA-2 for \$60,000 cash in U.S. currency. Tinian Dynasty accepted the cash and did not file a CTR.
- On March 2, 2013, UCA-2 purchased two casino vouchers, each in the amount of \$20,000 for a total of \$40,000. Tinian Dynasty accepted the cash and did not file a CTR.
- On March 4, 2013, UCA-1 exchanged \$20,000 in U.S. currency for chips. Tinian Dynasty accepted the cash and did not file a CTR.

- On March 4, 2013, the undercover agents exchanged chips and voucher for cash. Tinian Dynasty provided UCA-1 with \$148,150 in U.S. currency and provided UCA-2 with \$80,480 in U.S. currency. Tinian Dynasty did not file a CTR for either transaction.

The Casino Manager also provided detailed advice to the undercover agents posing as casino customers on how to conduct their transactions in a manner that would allow them to avoid having their transactions reported. Specifically, he advised them that whenever they did business in America, Australia, and New Zealand, they should keep their transaction amounts below \$10,000. The Casino Manager termed this the “magic number” that would trigger a CTR filing. He further cautioned them that conducting several transactions at \$9,900 would appear suspicious.

In addition to its willful failures to file CTRs at the request of the undercover agents posing as customers, the Casino also failed to file thousands of other CTRs over a period of at least four years as the direct result of its failure to implement an anti-money laundering program. FinCEN has identified more than 2,000 CTRs that the Casino failed to file between January 1, 2009, and April 22, 2013.

C. Violation of the Requirement to Report Suspicious Activity and Transactions

The Bank Secrecy Act and its implementing regulations require a casino to report a transaction that the casino “knows, suspects, or has reason to suspect” is suspicious, if the transaction is conducted or attempted by, at, or through the casino, and the transaction involves or aggregates to at least \$5,000 in funds or other assets. 31 C.F.R. § 1021.320(a)(2). A transaction is “suspicious” if the transaction: (a) involves funds derived from illegal activity; (b) is intended or conducted in order to hide or disguise funds or assets derived from illegal activity,

or to disguise the ownership, nature, source, location, or control of funds or assets derived from illegal activity; (c) is designed, whether through structuring or other means, to evade any requirement in the BSA or its implementing regulations; (d) has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the casino knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or (e) involves use of the casino to facilitate criminal activity. 31 C.F.R. § 1021.320(a)(2)(i)-(iv). A casino must file a suspicious activity report no later than 30 calendar days after initially detecting facts that may constitute a basis for filing a Suspicious Activity Report.

Before being indicted for BSA violations in May 2013, Tinian Dynasty had never filed a single Suspicious Activity Report. The undercover agents, while posing as Casino patrons, asked casino managers to allow them to make deposits to the Casino without the Casino filing any reports with the government regarding the transactions. The BSA explicitly defines attempts to avoid reporting requirements as suspicious activity that requires a Suspicious Activity Report to be filed. 31 C.F.R. § 1021.320(a)(2)(ii). Notwithstanding this requirement, Tinian Dynasty not only assisted the undercover agents in evading the BSA reporting requirements, but it failed to report the activity as suspicious.

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