

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the Certification)
to Conduct Gambling Activities of:)
Gilbert L. Onepennee)
White Swan, Washington,)
Class III Employee.)
_____)

NO. CR 2015-00279

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

I.

The Washington State Gambling Commission issued Gilbert L. Onepennee the following Class III Employee certification:¹

Number 69-37517, authorizing Class III Employee activity formerly at Legends Casino in Yakima.

The certification expires on December 18, 2015, and was issued subject to the Class III employee's compliance with state gambling laws and rules and the Yakama Nation Tribal/State Compact.

II.

David Trujillo, Director of the Washington State Gambling Commission, charges Gilbert Onepennee with the following violations of the Washington State Gambling Act, 9.46 RCW, WAC Title 230, and the Yakama Nation Tribal/State Compact:

SUMMARY:

Gilbert L. Onepennee has failed to prove he is qualified to hold a certification based on a Federal Indictment alleging conspiracy to commit Theft from Indian Tribal Organization, and multiple counts of Theft from Indian Tribal Organization. The Yakama Nation Tribal Gaming Commission summarily suspended Mr. Onepennee's license, pending revocation.

FACTS:

(1) In January 2015, Mr. Onepennee was summarily suspended, pending revocation by the Yakama Nation Tribal Gaming Commission (YNTGC) based on his pending criminal history.

¹ The Commission issues Class III certifications to Tribal casino employees. Certifications allow similar activities as Card Room Employee (CRE) licenses for persons working at commercial house-banked card rooms. Class III employees may transfer their certifications to a CRE license and work at commercial card rooms by sending Commission staff a transfer form and the accompanying fee.

(2) On February 5, 2015, A Washington State Gambling Commission Special Agent (agent) received an Affidavit of Undisclosed Criminal History completed by Mr. Onepennee. On it, he disclosed that he is being investigated for theft.

(3) On December 9, 2014, an Indictment was filed in the United States District Court Eastern Washington District. The following is a summary of the document:

- The Confederated Bands and Tribes of the Yakama Nation is a federally recognized Indian Tribe located in Washington. The Yakama Nation Higher Education Office facilitates a scholarship program for Tribal applicants seeking higher education.
- As part of the application, they are required to sign the Tribal Scholarship Agreement that states they understand if they withdraw from classes, or receive a 0.0 grade point average, that they will return the scholarship money. They further agree to use the scholarship money for educational purposes.
- Upon follow up, the Yakama Nation Higher Education Office was given documents from colleges identified by Mr. Onepennee indicating that they were not enrolled in or completing course work.
- Count One: Conspiracy to Embezzle and Theft from Indian Tribal Organization. From at least December 2009 through April 2013, Mr. Onepennee and his co-conspirators knowingly and willfully conspired and agreed to embezzle by fraudulently obtaining funds from an Indian Tribal organization for personal enrichment. As part of the conspiracy, Mr. Onepennee and others submitted applications with false information to the Yakama Nation Higher Education Office for scholarship money. The applications were approved and Mr. Onepennee and others received scholarship checks. Mr. Onepennee and others would then transfer a portion of the scholarship money to an employee at the Yakama Nation Higher Education Office.
- Counts 49-56: Theft from Indian Tribal Organization. On or about the following dates, Mr. Onepennee did embezzle, steal, money, funds, credits, assets, and other property of a value in excess of \$1,000 belonging to an Indian Tribal Organization:

- Count 49: November 9, 2011 - \$1,155
- Count 50: May 9, 2011 - \$3,250
- Count 51: June 15, 2012 - \$3,250
- Count 52: February 27, 2012 - \$3,250
- Count 53: August 19, 2011 - \$1,155
- Count 54: January 21, 2011 - \$3,250
- Count 55: July 29, 2011 - \$2,095
- Count 56: February 5, 2010 - \$3,250

(4) An Order Setting Pre-Trial Deadlines and Trial Date was filed on January 29, 2015. A jury trial was scheduled for March 30, 2015.

(5) On February 10, 2015, the agent called and spoke with the Licensing Supervisor of YNTGC about the status of Mr. Onepenne's tribal license. The Supervisor said that he was served revocation paperwork on February 6, 2015. Mr. Onepennee has 30 days to file an appeal. As of March 23, 2015, Commission staff has not received any updated information regarding the final outcome of the revocation.

VIOLATIONS:

1) Section V. C. of the Tribal-State Compact for Class III Gaming with the Confederated Tribes and Bands of the Yakama Indian Nation.

The State Gaming Agency² may revoke, suspend or deny a State certification under the provisions of RCW 9.46.075, and rules promulgated thereunder, 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 an applicant or holder of certification or principal of an entity:
(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 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.

(3) Has demonstrated a willful disregard for compliance with gaming regulatory authority in any jurisdiction, including offenses that could subject the individual to suspension, revocation or forfeiture of a gaming license.

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 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 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;

(8) Fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter;

² Washington State Gambling Commission, as referred to in Section II.V. of the Tribal-State Compact for Class III Gaming for the Yakama Indian Nation.

(9) Is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses included under subsection (4)³ of this section: PROVIDED, that at the request of an applicant for an original license, the commission may defer decision upon the application during the pendency of such prosecution or appeal.

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, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(The following subsection applies.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

(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; (b) Criminal record.

4) RCW 9.46.153(1) Applicants and licensees - responsibilities and duties

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.

Mr. Onepenne has failed to prove he is qualified to hold a certification based on a Federal Indictment alleging conspiracy to commit Theft from Indian Tribal Organization, and multiple counts of Theft from Indian Tribal Organization. The Yakama Nation Tribal Gaming Commission summarily suspended Mr. Onepenne's license, pending revocation. Mr. Onepenne has failed to establish, by clear and convincing evidence, as required by RCW 9.46.153(1), that he is qualified to be certified. Grounds therefore, exist to revoke Mr. Onepenne's Class III Employee certification under the Yakama Nation Tribal/State Compact, RCW 9.46.075(1), (8), and (9) and WAC 230-03-085(1) and (8).

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³ (4) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, wilful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude.

