STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the Class III Certification[1] to Conduct Gambling Activities of:	)	NO. CR 2008-01307
Yolanda Conway,	)	**NOTICE OF ADMINISTRATIVE CHARGES AND OPPORTUNITY FOR AN ADJUDICATIVE PROCEEDING**
Class III Gaming Employee.	)	

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 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

III.

The Washington State Gambling Commission issued Yolanda Conway of Aberdeen, the following certification:

Number 69-25398, authorizing Class III Gaming Employee activity, formerly at Shoalwater Bay Casino in Tokeland.

The certification expires on March 18, 2009, and was issued subject to the Class III employee's compliance with the Tribal (Shoalwater Bay Indian Tribe)/State compact, state gambling laws and Commission rules.

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[1] The Gambling Commission issues Class III Certifications to employees working at tribal casinos. The certifications authorize similar activities as the Card Room Employee (CRE) licenses issued to individuals working at commercial house-banked card rooms. Holders of Class III Certifications may automatically apply to have their certifications transferred to a CRE license by submitting transfer applications and accompanying fees.

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IV.

SUMMARY:

The Class III gaming employee took $30 from the Shoalwater Bay Casino by manipulating cash and accounting records while employed as a cashier.

FACTS:

1) On April 14, 2008, a Commission Special Agent (agent) began an investigation of a possible theft. Pam Pavlich, Tribal Gaming Agency Director, notified the agent about a possible theft involving Class III gaming employee, Yolanda Conway. Ms. Conway worked as a "Main Bank" cashier in the cashier cage.[2] Ms. Pavlich told the agent that the TGA had suspended Ms. Conway's gaming license pending a hearing before the Tribal Gaming Commission.

2) The agent reviewed the Shoalwater Bay Casino's Tribal Gaming Agency (TGA) reports and surveillance video tape recording of the incident. The agent found the following:

(a) The TGA was notified on April 6, 2008, about a violation committed on March 23, 2008, by Class III employee, Yolanda Conway.

(b) Ms. Conway reported a variance of $29.75 at the end of her shift. The casino's accounting department found Ms. Conway had reported a $29.75 overage at the end of her shift, when she should have reported a $29.75 shortage.

(c) Ms. Pavlich requested the TGA Internal Auditor to review all relevant cashier cage documents for Ms. Conway's shift. The Internal Auditor found that Ms. Conway was short $29.75 instead of the overage Ms. Conway had reported.

(d) The Internal Auditor collected surveillance video tapes covering Ms. Conway's work area in the cashier cage during Ms. Conway's shift on March 23, 2008.

(e) Ms. Pavlich reviewed surveillance video from several different angles of Ms. Conway's transactions occurring between 8:41 p.m. and 12:19 a.m. on March 23, 2008. Ms. Pavlich reported that Ms. Conway failed to follow the proper steps for cancelling Bally tickets,[3] was inconsistent in the way she paid out patrons, and that it was extremely difficult to determine the nature of Ms. Conway's transactions because of her poor money handling standards. Ms. Pavlich reviewed the surveillance video and observed the following:

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[2] The cashier cage is the physical structure which houses the cashier and serves as the central location for casino inventory, consisting of currency, coin, patron checks, gaming chips, forms, documents, records, and the receipt, distribution, and redemption of gaming chips.

[3] Casino patrons use Bally tickets to play the tribal lottery system machines.

i. At about 8:41 p.m., a male patron later identified by Ms. Pavlich gave Ms. Conway two $100 bills and two match-play coupons.[4] The coupons were valued at $20 and $10. The male patron and a female patron were standing outside at the cashier cage window.

ii. Ms. Conway stamped the coupons and initialed them. She then exchanged the two $100 bills with smaller denominations as follows: four $20 bills, two $10 bills, and two $50 bills. Ms. Conway spread these smaller denominations on the counter and pushed one $50 bill to the male patron. Ms. Conway then moved the bills around on the counter before inaccurately redeeming the $20 match-play coupon with a $10 bill and the $10 match-play coupon with a $10 bill.

iii. Ms. Conway pulled back the $50 bill she had previously pushed towards the male patron and gave the male patron a $20 and a $10 bill instead.

iv. The male patron took the $30 and placed it in his wallet. Ms. Conway then printed three $50 Bally tickets and two $25 Bally tickets for a total of $200, and gave these to the male patron.

v. At this point, Ms. Conway had at least $250 in cash visible on the counter. Ms. Conway placed the cash into the Bally point of sale drawer without counting it.

vi. Ms. Conway left two match-play coupons, a $20, and a $10 bill on the counter while she performed another transaction with Casino Shift Manager, Bill Wilson, and then performed several other transactions with patrons.

vii. At about 8:44 p.m., Ms. Conway moved the $20 bill and the $10 bill under a stapler on the cage counter. At about 8:48 p.m., Ms. Conway moved the $30 into a drawer that normally does not contain cash, below her main bank drawer. Ms. Conway also placed the match-play coupons under the Bally point of sale drawer.

viii. Ms. Conway placed a plastic container, used to hold processed Bally tickets, on top of the $30 cash. She then locked the drawers and left the cage.

ix. At about 9:01 p.m., Ms. Conway returned to the cage, and two minutes later, opened the drawer with the $30 cash and removed the plastic container. At 9:05 p.m., Ms. Conway opened the drawer with the $30 cash, looked down at the bills, and then closed the drawer.

x. At 9:21 p.m., Ms. Conway opened the drawer, removed the $30 in cash, and placed them under the stapler on the counter again. At 9:38 p.m., Ms. Conway moved the cash and placed it under a scanner on the counter.

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[4] The casino rewards specific patrons with match-play coupons that patrons can redeem for cash or tribal lottery system machine tickets.

xi. At 10:16 p.m., Ms. Conway cashed a check for a patron. She gave the patron a $20 Bally ticket and two $20 bills. Instead of placing the check in the main bank drawer, Ms. Conway placed the check to the right of the Bally point of sale drawer. Three minutes later, Ms. Conway completed another point of sale transaction but failed to close the cash drawer. Ms. Conway then exchanged funds between her main bank drawer and the Bally point of sale drawer, and between the Bally point of sale and another point of sale drawer, without verification or documentation.

xii. At 10:27 p.m., Ms. Conway completed another transaction that could not be observed fully. Ms. Conway placed a bill in the $20 slot of the Bally point of sale drawer but did not print a Bally ticket.

xiii. At 11:45 p.m., Ms. Conway took the $30 from under the scanner on the counter and pushed it out to Casino Shift Manager, Bill Wilson, so that Mr. Wilson could place it in the cashiers' tip box, located outside of the cage and out of reach of the cashiers.

(f) Ms. Conway stated in writing that her Bally drawer was short by about $30, but that she did not "intentionally mean to take money that was not mine to take."

(g) Ms. Conway also stated in writing that the male patron that had given her the two $100 bills and $30 in match-play coupons had given her $30 and said, "that's yours."

(h) Bryan Tate, the casino General Manager, told Ms. Pavlich that he had contacted the male patron by phone. The male patron said he did not tip on March 23, 2008, because he was losing.

(i) The Shoalwater Bay Tribal Gaming Commission held a hearing on April 22, 2008, and on April 25, 2008, issued a Written Determination. The Tribal Gaming Commission found the following:

i. Ms. Conway appeared to be manipulating $30 in cash from one place to another in a confused manner during the approximate three-hour period before she decided that it should go into her tip box.

ii. Tip procedures were not committed to writing.

iii. The surveillance video showed $30 in cash (a $20 and $10 bill) being handled by Ms. Conway during a confused transaction that took place on the main bank counter. Ms. Conway slid $30 in cash along the main bank counter under a stapler to her right. She then moved the cash to a secondary drawer (where money is not normally kept), where she covered the money with a "Tupper-ware" container. Ms. Conway then moved the cash back to the main bank counter and placed it under the stapler again. Later, Ms. Conway moved the cash again to a position to her right, beneath a Bally point of sale scanner, and later moved it again under the stapler. Finally, Ms. Conway pushed the cash towards the Casino Shift Manager, Bill Wilson, who was outside of the cage. Mr. Wilson placed the cash in the cashiers' tip box.

iv. The main bank accounting summary form's ending balance and actual count amounts were inverted to show that there was an overage of $29.75. The next day, casino accounting staff corrected this error and reflected a shortage.

(j) The Tribal Gaming Commission stated that after carefully weighing and evaluating the evidence, it concluded the following:

i. There was insufficient evidence to conclude that Ms. Conway intended to improperly convert casino funds into tip money.

ii. There was insufficient evidence to conclude that Ms. Conway violated any standardized operating procedures with regard to the handling of tip money.

iii. The cage was short $30.

iv. There were errors in calculations, past variances of cash or tickets unaccounted for, incomplete transactions and procedural errors. Other cage cashiers have had these same types of errors on occasion.

v. The Tribal Gaming Commission was concerned that there appeared to be a lack of sufficient training and clear policies and procedures in place, including signatures that indicate that employees have read and understands relevant departmental minimum internal control standards and standard operating procedures.

vi. The Washington State Gambling Commission may want to independently rehear this case.

vii. Ms. Conway's tribal gaming license was reinstated as of April 25, 2008.

3) The agent concluded that Ms. Conway had taken $30 by manipulating cash, forcing the balance in her various cage drawers, and by misreporting an overage on her accounting form. The agent also observed that at the beginning of the transaction with the male patron, when Ms. Conway had exchanged two $100 bills for smaller denominations, Ms. Conway had placed only one $100 bill in her main bank drawer.

4) On April 29, 2008, the casino terminated Ms. Conway's employment based on her taking $30 as a tip that did not belong to her.

5) No criminal charges against Ms. Conway are pending, and as of October 16, 2008, according to the Commission's licensing records, she is not working in gambling activity.

VIOLATIONS:

1) RCW 9.46.075(1) provides that the Commission may revoke a license or permit for any reason it deems to be in the public interest, or when the licensee or permit holder has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW, or by Commission rules.

2) WAC 230-03-085 provides that the Commission may revoke any license or permit when the licensee or permit holder commits any act that constitutes grounds under RCW 9.46.075 for revoking a license or permit.

3) Section V of the Tribal/State Compact provides that the State Gaming Agency may revoke a certification under the provisions of RCW 9.46.075 and Commission rules, for any reason it deems to be in the public interest.

4) RCW 9.46.190(3) provides that any person operating any gambling activity who or which, directly or indirectly, engages in any act, practice or course of operation as would operate as a fraud or deceit upon any person is guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021.

5) RCW 9.46.075(8) provides that the Commission may revoke a license or permit when the holder fails to prove, by clear and convincing evidence, that she is qualified in accordance with the provisions of this chapter, and RCW 9.46.153(1) provides that it shall be the affirmative responsibility of each licensee or permit holder to establish by clear and convincing evidence the necessary qualifications for licensure.

On March 23, 2008, while working as a cage cashier, Ms. Conway took $30 from the Shoalwater Bay Casino by manipulating cash, forcing the balance in her various cage drawers, and by misreporting an overage on her accounting form.

V.

The charges specified in paragraph IV above constitute grounds for revocation of the certification issued to Yolanda Conway to conduct authorized gambling activities under the authority of the Tribal/State Compact, RCW 9.46.075 and WAC 230-03-085.

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VI.

The Class III gaming employee 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 CLASS III GAMING EMPLOYEE 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 LICENSE) 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 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 me this 20th day of October, 2008.

Michelle M Pardee
NOTARY PUBLIC in and for the State of Washington residing at Lacey.
Commission Expires June 15, 2009

MICHELLE M. PARDEE
COMMISSION EXPIRES
NOTARY
PUBLIC
6-15-09
STATE OF WASHINGTON

STATE OF WASHINGTON)
)SS
COUNTY OF THURSTON)

I hereby certify that I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy thereof, properly addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 20th day of October, 2008

Communications and Legal Department
Washington State Gambling Commission

Maureen Pistell