

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of Certification)
to Conduct Gambling Activities of:)
)
Adam Flores,)
Olympia, Washington,)
)
Class III Employee.)
_____)

NO. CR 2009-01000

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

I.

The Washington State Gambling Commission issued Adam Flores the following certification:¹
Number 69-11883, Authorizing Class III Employee Activity, formerly with the Nisqually Tribe at the Red Wind Casino in Olympia.

The certification expires on March 16, 2010, and was issued subject to the Class III Employee's compliance with state gambling laws and rules and the Nisqually Tribe/State Compact.

II.

David Trujillo, Deputy Director of the Washington State Gambling Commission, charges the Class III Employee with the following violations of the Washington State Gambling Act, 9.46 RCW, WAC Title 230, and Nisqually Tribe/State Compact:

- 1) Appendix A, Section 17(3) of the Nisqually Tribe/State Compact states that when an employee receives a tip from a patron, the employee will immediately deposit the tip into the tip box. Nisqually Red Wind Casino Internal Control #910-02.11-016 states that all employees are prohibited from gambling at table games within the Red Wind Casino.
- 2) On April 28, 2009, while working at a Craps table, the Class III Employee received a tip from a casino patron. The Class III Employee did not immediately deposit this tip into the tip box. Instead, the Class III Employee asked a player at the Craps table to wager the tip in an area where players place wagers which are eventually given to the dealers as tips. The player agreed and wagered the tip given to the Class III Employee.

¹ The Commission issues Class III Certifications to employees working at Tribal casinos. Certifications allow similar activities as Card Room Employee (CRE) licenses issued to 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.

- 3) After the player made the initial wager, the Class III Employee continued to make new wagers and add money to the wager without the assistance of the player. As a result of the Class III Employee's actions, he gained additional money totaling approximately \$200. The Class III Employee then deposited the additional money gained into the tip box² at the gaming table. This resulted in a loss of approximately \$200 to the Red Wind Casino. The Class III Employee's actions demonstrate fraud and deceit, in violation of RCW 9.46.190.
- 4) On May 6, 2009, the Class III Employee was interviewed by a Nisqually Tribal Gaming Agent (TGA). The Class III Employee admitted that he wagered the tip he received from a patron; he said it is a common thing done by dealers at the Craps table. On May 27, 2009, the Nisqually Tribal Gaming Commission revoked the Class III Employee's Tribal Gaming License.
- 5) The Class III employee failed to immediately deposit a tip into the tip box in violation of Appendix A, section 17(3) of the Nisqually Tribe/State Compact. The Class III Employee wagered the tip at the Craps table he was working at in violation of Nisqually Red Wind Casino Internal Control #910-02.11-016. The Class III Employee failed to comply with the provisions, requirements, conditions, limitations or duties imposed by the Nisqually Tribal/State Compact and his actions demonstrate willful disregard for compliance with the gaming regulatory authority.
- 6) The Class III Employee, while working as a dealer at a Craps table, pursued economic gain in an occupational manner or context and such pursuit creates probable cause to believe that his participation in gambling related activities would be detrimental to the proper operation of gambling. Additionally, his actions demonstrate that he poses a threat to the effective regulation of gaming and increase the likelihood of illegal practices, methods and activities in the conduct of the gaming activities.
- 7) Based on the Class III Employee's actions and his tribal license being revoked, Adam Flores has failed to establish by clear and convincing evidence the necessary qualifications for certification under RCW 9.46.153(1).
- 8) Therefore, grounds exist to revoke Adam Flores' certification under Section V(C)(1) and (3) of the Nisqually Tribe/State Compact, RCW 9.46.075 (1), (8), and (10) and WAC 230-03-085 (1).

Section V(C) of the Nisqually Tribe/State Compact

The State Gaming Agency may revoke, suspend or deny a State Certification under the provisions of RCW 9.46 and the rules promulgated thereunder, for any reason or reasons it deems to be in the public interest. These reasons shall include when the certification holder: (The following subsections apply)

- (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

² The contents of the tip box are shared between the employees working at the gaming table.

activities 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 had a Tribal or State gaming license revoked or denied during the twelve (12) months prior to the date of receipt of the application; is currently on probation; or has demonstrated a willful disregard for compliance with gaming regulatory authority in any jurisdiction, including offenses that could subject the individual or entity to suspension, revocation or forfeiture of a gaming license.

Appendix A, Section 17 of the Nisqually Tribe/State Compact

Acceptance of Gratuities from Patrons

(The following subsection applies)

(3) Upon receipt from a patron of a tip, a croupier or dealer assigned to a gaming station shall tap the table or wheel and extend his or her arm to show the pit boss that he had received a tip and immediately deposit such tip in the tip box. Tips received shall be retained by employees or pooled among employees in such a manner as determined by the tribal gaming operation.

RCW 9.46.075 Denying, suspending, or revoking an application, license 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 licensee, 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, she or it is qualified in accordance with the provisions of this chapter;

(10) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain.

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.

RCW 9.46.153 Applicants and licensees-Responsibilities and duties

(The following subsection applies)

- (1) 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.

RCW 9.46.190 Violations relating to fraud or deceit

Any person or association or organization operating any gambling activity who or which, directly or indirectly, shall in the course of such operation:

(The following subsections apply)

- (1) Employ any device, scheme, or artifice to defraud; or
- (2) Make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statement made not misleading, in the light of the circumstances under which said statement is made; or
- (3) Engage in any act, practice or course of operation as would operate as a fraud or deceit upon any person;

Shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.02.021.

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III.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, WAC Title 230, and Nisqually Tribe/State Compact.

The Class III Employee will have the opportunity to have a hearing on the alleged violations.

In order to have a hearing or discuss settlement options, the enclosed request for hearing must be completed and returned to the Gambling Commission **within 23 days** from the date of the mailing of this notice.

Based on RCW 34.05.440, failure to return this document will result in the entry of a default order REVOKING your certification.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

David Trujillo, being duly sworn on oath, says: That he has read this Notice of Administrative Charges and Opportunity for An Adjudicative Proceeding, knows the contents of it, believes it to be true, that he is the Deputy Director of the Washington State Gambling Commission, and in that capacity has executed said Notice.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

David Trujillo

DAVID TRUJILLO, DEPUTY DIRECTOR

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.

SUBSCRIBED AND SWORN TO before me this 17th day of AUGUST, 2009.

Dated at Olympia, Washington this 17th day of August, 2009

[Signature]

NOTARY PUBLIC in and for the State of Washington residing at Puyallup WA
My commission expires on 7-16

Communications and Legal Department
Washington State Gambling Commission

Margaret Pretell

