

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Summary Suspension of the)
Certificate to Operate Gambling Activities of:)
) CR 2009-01593
)
)
Giovanni Ribay,)
Tacoma, Washington,) **FINDINGS OF FACT,**
) **CONCLUSIONS OF LAW,**
) **AND ORDER OF SUMMARY**
) **SUSPENSION**
Class III Gaming Employee.) **OF CERTIFICATION**
)
)

Pursuant to RCW 34.05.422(4), the Washington State Gambling Commission (Commission) may summarily suspend a license pending proceedings for revocation or other action. The Commission has authorized the Director to summarily suspend a Certification under RCW 9.46.070(17) and WAC 230-17-165.

This matter has been brought before the Director for a summary suspension of Giovanni Ribay's Class III Certification, and the Director has issued this order and caused it to be served upon the Class III Gaming Employee.¹ This order shall be effective immediately upon its service to the Class III Employee, or authorized representative or agent thereof, unless otherwise specified herein. By this authority, an authorized agent of the Commission shall seize Giovanni Ribay's current Certification authorizing gambling activity and his gambling activities shall cease as ordered.

I.

Rick Day is the Director of the Washington State Gambling Commission and issues this order in that capacity.

II.

Jurisdiction of this proceeding is based on Chapter 9.46 RCW, Gambling, Chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

¹ Class III Certification is issued to employees working at Tribal casinos. The certification authorizes similar activities as the Card Room Employee (CRE) license issued to individuals working at commercial house-banked card rooms. Holders of a Class III Certification may apply to have the certification transferred to a CRE license.

III.

The Washington State Gambling Commission issued Giovanni Ribay the following Class III Certification:

Number: 69-22047, Authorizing Class III Gaming Employee Activity at the Swinomish Tribal Casino.

This Certification, which expires on November 14, 2010, was issued subject to Mr. Ribay's compliance with state gambling laws, the Swinomish Tribal/State Compact and Commission rules.

IV.

After a thorough review of the Commission Special Agent's investigative report concerning the facts in this matter, the Director accepts the report as a verity and makes the determination that the action as ordered is warranted.

V.

SUMMARY:

On February 3, 2009, Giovanni Ribay was charged with 2nd Degree Rape of a Child, and 2nd Degree Child Molestation, in violation of his certification. Mr. Ribay has failed to prove through clear and convincing evidence that he continues to qualify for certification. These felony charges involve physical harm to an individual and moral turpitude. Mr. Ribay poses an immediate danger to public safety and welfare, and his certification should therefore be summarily suspended.

FACTS:

1) On October 21, 2009, a Commission Special Agent (Agent) was assigned Giovanni Ribay's file for determination of his suitability for Class III Certification, after Swinomish Gaming Authorities (SGA) discovered that he has pending felony charges for 2nd Degree Child Rape, and 2nd Degree Child Molestation. SGA became aware of the charges during a routine annual criminal check.

2) As part of the investigation, the agent reviewed Mr. Ribay's licensing file. The agent observed that Mr. Ribay first applied for and was granted certification in 2005. He has renewed his certification ever since. The agent also observed Mr. Ribay's renewal application for 2009, where he checked "yes" in the box inquiring about new criminal history. There was a statement attached with information that Mr. Ribay was charged with Rape of a Child, and that the investigation was still in progress. This method of information is in compliance with the reporting requirements set forth in the Tribal/State compact.

3) On October 21, 2009, the agent obtained a copy of the Information and Probable Cause from Skagit County Superior Court for Mr. Ribay's pending case.

4) The Information charges Mr. Ribay with 2nd Degree Rape of a Child, a class A Felony. It alleges that sometime between January 1, 2008 and February 29, 2008, Mr. Ribay "did have sexual intercourse with... [GNR] who was at least twelve years old but less than fourteen years old, contrary to RCW 9A.44.076." The Information also charges Mr. Ribay with 2nd Degree Child Molestation, a class B Felony. It alleges that sometime between January 1, 2008 and February 29, 2008, Mr. Ribay "had sexual contact with GNR who was at least twelve (12) years old but less than fourteen (14) years old, contrary to RCW 9A.44.086."

5) The Certification for Determination of Probable Cause included the following information:

- a) GNR was 12 years old in January and February 2008. Mr. Ribay was 32 years old at that time. Mr. Ribay is GNR's father.
- b) In February 2009, a sex offense report was made by a school counselor at Anacortes Middle School, and a police officer was dispatched there in response. The victim, GNR, was interviewed and reported that the alleged crime occurred approximately one year earlier. GNR said that in January 2009, she told her friends that Mr. Ribay had "raped her" on two occasions in the first quarter of 2009, while living with her grandparents. The friends told the school counselor, who made the report.
- c) In the police interview, GNR reports that in January, 2008, she awoke to find her father ... "lying by her side in bed." She knew that when she went to bed she had been wearing pajama bottoms, but when she woke up she found they had been removed while she was sleeping. Mr. Ribay said that "he was sorry for what he had done, told her to 'pretend it never happened,' and asked her not to tell anyone about the incident." GNR told police that a few weeks later it happened again, only when she started to wake up, Mr. Ribay did not stop.
- d) While being questioned by police, Mr. Ribay initially admitted to sleeping with GNR, but denied inappropriate contact. Later in the interview, Mr. Ribay hung his head and repeated "it's just not right" over and over again. He then stated "what occurred between he and (GNR) 'just wasn't right." He acknowledged "one occasion he remembered he had been sleeping next to (GNR) . . . and when he began to fully wake up he realized he was touching her . . . when he realized what he was doing he . . . ran out of the room crying and getting upset as he realized what he had done." Mr. Ribay "acknowledged that he told his daughter that it wouldn't happen again . . ."
- e) Mr. Ribay declined to provide a written statement.

CONCLUSIONS OF LAW

I.

1) RCW 9.46.070(17) provides that the Commission shall have the following powers and duties: The Commission may authorize the Director to temporarily suspend licenses subject to final action by the Commission.

2) WAC 230-17-165(2) provides that the Director may issue an order to summarily suspend any license if the Director determines that a licensee has performed one or more of the actions identified in RCW 9.46.075 as posing a threat to public health, safety, or welfare.

3) WAC 230-17-165(3)(a) provides that the Commission deems the following actions of a licensee constitute an immediate danger to the public safety and welfare: Failing or refusing to comply with the provisions, requirements, conditions, limitations, or duties imposed by chapter 9.46 RCW or any rules adopted by the Commission.

Mr. Ribay is charged with having committed 2nd Degree Rape and Molestation of a child between January and February of 2008. The licensee's actions constitute an immediate danger to public safety and welfare based on WAC 230-17-165(3)(a), and are a basis for immediate cessation of Mr. Ribay's licensed activities.

4) RCW 9.46.075(1) provides the Commission may revoke any license for any reason or reasons, it deems to be in the public interest.

5) RCW 9.46.075 (9) provides that the Commission may revoke a license of any licensee who is subject to current prosecution or pending charges of forgery, larceny, ... or of any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude

6) WAC 230-03-085(1) and (8) provide that the Commission may revoke a license of any licensee, when the licensee poses a threat to the effective regulation of gaming or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gaming activities as demonstrated by prior activities.

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

Mr. Ribay is charged with having committed 2nd Degree Rape and Molestation of a child between January and February of 2008. Based on this, the Class III Employee poses a threat to the effective regulation of gaming, or increases the likelihood of unfair or illegal practices as demonstrated by his prior activity.

The Class III Employee has also failed to establish clearly and convincingly, as required by RCW 9.46.153(1), that he is qualified to be licensed. Grounds, therefore, exist to revoke

Giovanni Ribay's certification based on RCW 9.46.075(1), (8) and (9), and WAC 230-03-085(1) and (8).

II.

Immediate cessation of Giovanni Ribay's gambling activity is required for the protection and preservation of the safety and welfare of the public based on Mr. Ribay's failure to comply with the provisions imposed by chapter 9.46 RCW or any rules adopted by the Commission pursuant to WAC 230-17-165(3)(a).

ORDER

Based on the FINDINGS OF FACT AND CONCLUSIONS OF LAW, it is the ORDER of the undersigned Director, based on the authority granted to him by RCW 9.46.070(17), RCW 34.05.422, and WAC 230-17-165, that Giovanni Ribay's certification within the State of Washington is hereby summarily suspended pending a formal hearing by an Administrative Law Judge.

This summary suspension will be effective immediately upon the service of this Order to the Class III Employee or an authorized representative or agent.

STATEMENT OF RIGHTS

1) **You have a right to petition for a stay of this Order.** You may request a stay by filing a written request with the Commission. **Any request for a stay must be received by the Commission within fifteen (15) days** of service of this Order upon you. If a timely request for a stay is received by the Commission, **a hearing regarding a request for stay will be conducted within seven (7) days** in accordance with WAC 230-17-170.

The stay hearing shall be limited to consideration of whether a stay should be granted, or whether the terms of the suspension may be modified. **Furthermore, at the hearing, the licensee shall have the burden of demonstrating by clear and convincing evidence that:**

- (a) The Class III Employee is likely to prevail upon the merits at hearing;
- (b) Without relief, the licensee will suffer irreparable injury. For purposes of this section, elimination of income from licensed activities shall not be deemed irreparable injury;
- (c) The grant of relief will not substantially harm other parties to the proceedings; and
- (d) The threat to the public safety or welfare is not sufficiently serious to justify continuation of the suspension, or that modification of the terms of the suspension will adequately protect the public interest.

A request for a stay does not constitute a request for a hearing as provided in paragraph (2) of this Statement of Rights.

(2) **You also have a right to a full hearing on the merits in this matter.** You may request a hearing by completing and returning to the Commission the enclosed Application for Adjudicative Proceeding and Request for Hearing.

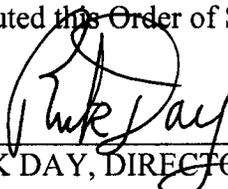
Failure to submit the Application for Adjudicative Proceeding and Request for Hearing form within twenty (20) days of service of this order upon you shall result in a waiver of your right to an adjudicative proceeding and entry of an order in default under RCW 34.05.440.

If a timely application for a hearing is received, a hearing shall be conducted no sooner than seven (7) days nor later than 90 days from the date of service of this Order unless otherwise agreed to by the parties: Provided, that you may waive the seven (7) day notice rule of RCW 34.05.434 and request a hearing at an earlier date.

If you have any questions regarding the rights stated above, please contact Staff Attorney, Brenda Bono at (800) 345-2529 ext. 3470.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

Rick Day, being first duly sworn on oath, deposes and says: He has read this Order of Summary Suspension of Giovanni Ribay's Certification, knows the contents, and believes the same to be true, and that he is the duly appointed and qualified Director of the Washington State Gambling Commission and in that capacity has executed this Order of Summary Suspension of the Certification.



RICK DAY, DIRECTOR

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



NOTARY PUBLIC in and for the State of Washington,
residing at PUYALLUP, WA
My commission expires 7-16-2013.

