

STATE OF WASHINGTON  
GAMBLING COMMISSION

In the Matter of the Revocation of the )  
License to Conduct Gambling Activities of: ) No. CR 2010-00375  
)  
Daniel Nakata )  
Everett, Washington, ) **NOTICE OF ADMINISTRATIVE**  
) **CHARGES AND OPPORTUNITY FOR**  
Licensee. ) **A HEARING**  
)  
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I.

The Washington State Gambling Commission issued Daniel Nakata the following license:

Number 68-09802, Authorizing Card Room Employee Activity formerly with The Club in Everett.

This license expires on August 4, 2010, and was issued subject to the licensee's compliance with state gambling laws and regulations.

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

II.

Rick Day, Director of the Washington State Gambling Commission, charges the licensee with the following violation of the Washington State Gambling Act, 9.46 RCW, and WAC Title 230:

- 1) Previously, the licensee worked at The Club in Everett as a "poker host." The licensee would play poker, with his own money, at The Club and invite or "draw" people into a poker game to keep the game going.
- 2) In October 2009, a Commission Special Agent (agent) received an e-mail from an employee at The Club that the licensee was conducting in what he believed was illegal gambling activity at The Club. While on break, the employee observed:
  - The licensee carrying a small book that had handwritten numbers and a small newspaper clipping on a page.
  - The licensee talking on his cell phone and said "who do you like in the .... game."
  - After the cell phone call, the licensee discussing sporting events with a patron of The Club.

3) Based on the information from the e-mail, an agent, in an undercover capacity, observed the licensee's activities at The Club in Everett from November 2009 through January 2010. On multiple days, the agent saw the following:

- The licensee would leave his apartment with a pink/purple book (book) and put the book into his car and drive to The Club.
- Once at The Club, the licensee would remove the book from his car and take it into The Club.
- While he played poker at The Club, the licensee would have the book next to him and discuss with employees and patrons in The Club about placing bets on sporting activity, as well as the sports betting information recorded in the book.

4) On November 30, 2009, an employee of The Club provided the agent with surveillance video of the licensee actions with at The Club on November 19, 2009. The agent reviewed the surveillance video for November 19, 2010, and observed the following:

- The licensee was playing poker and had the book at a poker table.
- The licensee opened the book to a page that contained a newspaper clipping and hand written entries similar to those relating to sports betting records.
- The licensee talked with and showed the book to other poker players at the table.

5) On December 30, 2009, the undercover agent, while he was at The Club, saw the book and a college football pool sheet next to the licensee while he was playing poker. The agent obtained surveillance video of the licensee in The Club on December 30, 2009.

6) On January 11, 2010, the undercover agent, while he was at The Club, saw and heard the following:

- The book was next to the licensee while he was playing poker.
- The licensee picked up the book and opened it.
- The licensee discussed sports betting information and referenced the contents of the book with other players at the poker table.

The agent obtained surveillance video of the licensee's actions at The Club on January 11, 2010.

7) Additionally, the agent, along with other Commission Special Agents, observed the licensee meet people at the trunk of his car, which was parked in The Club's parking lot. An undercover agent overheard the licensee discuss sports, placing bets, and winning and losing money on his cell phone and with the people he met in the parking lot.

8) On January 21, 2010, the agent, along with other Commission Special Agents, served a search warrant on the licensee's car and apartment. In the licensee's car, the agents found the

pink/purple book, that the agent saw the licensee put into and take out of his car, as well as have in his possession in The Club.

9) The agent reviewed the pink/purple book found in the licensee's car and observed that the entries made in the book were consistent with sports betting for 2009 through 2010. The book contained football game lines,<sup>1</sup> game results, wagers made, and amount of money won and lost, all of which are consistent with gambling records under RCW 9.46.0253 and professional gambling under RCW 9.46.0269.

10) Based on the licensee's actions at The Club and his possession of gambling records while working at The Club and in his car, the licensee knowingly made, possessed, stored, and transported gambling records to aid in an unauthorized gambling activity in violation of RCW 9.46.217 and RCW 9.46.221.

11) The licensee's activities demonstrate that he is 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. Therefore, the licensee has failed to establish by clear and convincing evidence the necessary qualifications for licensure, in violation of RCW 9.46.153.

12) Grounds, therefore, exist to suspend or revoke Daniel Nakata's license under RCW 9.46.075(1) and (8), and WAC 230-03-085(1) and (8).

**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 licensee, or any person with any interest therein.

The following subsection(s) 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.

**WAC 230-03-085 Denying, suspending, or revoking an application, license or permit**

The following subsection(s) apply:

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:

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<sup>1</sup> A line is a system of points used for betting on sports teams and is based on the sports team's performance and ability to win a particular game.

(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; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e) Associations.

**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 9.46.217 Gambling records — Penalty — Exceptions.**

Whoever knowingly prints, makes, possesses, stores, or transports any gambling record, or buys, sells, offers, or solicits any interest therein, whether through an agent or employee or otherwise, is guilty of a gross misdemeanor. However, this section does not apply to records relating to and kept for activities authorized by this chapter when the records are of the type and kind traditionally and usually employed in connection with the particular activity. This section also does not apply to any act or acts in furtherance of the activities when conducted in compliance with this chapter and in accordance with the rules adopted under this chapter. In the enforcement of this section direct possession of any such a gambling record is presumed to be knowing possession thereof.

**RCW 9.46.0253 "Gambling record."**

"Gambling record," as used in this chapter, means any record, receipt, ticket, certificate, token, slip or notation given, made, used or intended to be used in connection with professional gambling.

**RCW 9.46.0269 "Professional gambling."**

(1) A person is engaged in "professional gambling" for the purposes of this chapter when:

(a) Acting other than as a player or in the manner authorized by this chapter, the person knowingly engages in conduct which materially aids any form of gambling activity.

**RCW 9.46.221 Professional gambling in the second degree.**

(1) A person is guilty of professional gambling in the second degree if he or she engages in or knowingly causes, aids, abets, or conspires with another to engage in professional gambling as defined in this chapter, and:

(a) Acts in concert with or conspires with less than five people; or

(b) Accepts wagers exceeding two thousand dollars during any thirty-day period on future contingent events; or

(c) The operation for whom the person works, or with which the person is involved, accepts wagers exceeding two thousand dollars during any thirty-day period on future contingent events; or

- (d) Maintains a "gambling premises" as defined in this chapter; or
- (e) Maintains gambling records as defined in RCW 9.46.0253.

(2) However, this section shall not apply to those activities enumerated in RCW 9.46.0305 through RCW 9.46.0361 or to any act or acts in furtherance of such activities when conducted in compliance with the provisions of this chapter and in accordance with the rules adopted pursuant to this chapter.

(3) Professional gambling in the second degree is a class C felony subject to the penalty set forth in RCW 9A.20.021.

III.

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

The licensee 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 a request for hearing will result in the entry of a default order REVOKING your license.

STATE OF WASHINGTON )  
 ) ss.  
 COUNTY OF THURSTON )

Rick Day, 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 Director of the Washington State Gambling Commission, and in that capacity has executed said Notice.

*Rick Day*  
 \_\_\_\_\_  
 RICK DAY, DIRECTOR

SUBSCRIBED AND SWORN TO before me  
 this 5<sup>th</sup> day of May, 2010.  
*Michelle M. Pardee*  
 \_\_\_\_\_  
 NOTARY PUBLIC in and for the State of  
 Washington residing at Lacey  
 My Commission Expires on June 16, 2013



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 6<sup>th</sup> day of May, 2010

*Mawana Patel*  
 \_\_\_\_\_  
 Communications and Legal Department  
 Washington State Gambling Commission

