

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the)
Certification to Conduct Gambling Activities of:) No. CR 2011-01549
)
Scott D. Pacheco)
Marysville, Washington,)
) **NOTICE OF ADMINISTRATIVE**
) **CHARGES AND OPPORTUNITY FOR**
) **AN ADJUDICATIVE PROCEEDING**
)
Class III Employee.)
_____)

I.

The Washington State Gambling Commission issued Scott Pacheco certification¹ number 69-16660, authorizing Class III Employee activity, formerly with the Tulalip Tribe.

This certification expires on March 9, 2012, and was issued subject to the certified employee's compliance with state gambling laws and regulations.

II.

Rick Day, Director of the Washington State Gambling Commission, charges the certified employee with the following violations of the Tulalip Tribal/State Compact, Washington State Gambling Act, 9.46 RCW, and WAC Title 230:

- 1) A Commission Special Agent (agent) was assigned Scott Pacheco's file to investigate whether he continues to qualify for certification after having his tribal license revoked. In the context of the investigation, the agent received a copy of an Incident Report from the Tulalip Tribal Gaming Agency (TTGA). The report documented the TTGA's investigation of Scott Pacheco, Class III Employee and Tribal Lottery System (TLS)² technician, for theft of TLS tickets.
- 2) Part of Mr. Pacheco's duties as a TLS technician included testing and repairing the machines. The TLS technician is allowed to check out TLS tickets from the cashier cage to be used for official testing. The unused portion of the ticket should be returned to the cage when the testing is completed. When a technician requests a ticket for testing, the cashier creates a ticket that has a unique serial number. The serial number can be traced using the machine servers.

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. By submitting a transfer form and fees, holders of a Class III Certification may convert their certification to a CRE license.

² Tribal lottery system or Video Gaming Terminal machines: The TLS/VGT machines are a cashless computerized gaming system that allows players to convert cash into game play credits which are printed on tickets and then inserted into a bill receptor on Player Terminal (PT) machines. The credits are added to the machine and used to play the game.

3) In the summer of 2011, TTGA was involved in an investigation of their TLS techs after one of them admitted to taking over \$10,000 worth of TLS tickets and having them cashed out for his own use. This employee stated that he was not the only TLS tech engaging in this unlawful activity. On June 29, 2011, a letter was sent to all of the licensees in the Tribe's Slot Tech Department, informing them that they were the subject of an ongoing investigation that had resulted in significant losses to the Tribe. The letter stated that as an alternative to suspending their tribal gaming licenses, they could take a polygraph test that would have limited scope to the theft of TLS tickets. Out of the 20 letters that were issued, 17 employees responded that they would participate, including Mr. Pacheco.

4) Based on their investigation, the TTGA determined that Mr. Pacheco, while working as a TLS technician, committed theft of at least \$50 by failing to return the unused portions of TLS tickets to the cage as required. Mr. Pacheco gave the tickets to his son to cash out at a Ticket Exchange (TX) machine. Use of the TX machine is outside the scope of responsibility of a TLS technician. Mr. Pacheco had shown in the past that he knew it was proper to return his unused tickets. As a result, Mr. Pacheco and his son defrauded the Tulalip Tribe of more than \$50.

5) On May 24, 2011, the Tulalip Gaming Commission suspended Mr. Pacheco's Tribal Gaming license, pending revocation. Mr. Pacheco did not file an appeal, and his tribal license revocation was final on September 1, 2011.

6) Based on his actions, Mr. Pacheco poses a threat to the effective regulation of gaming, and enhances the chance of unfair illegal practices, and has failed to establish by clear and convincing evidence the necessary qualifications for certification under RCW 9.46.153(1), and RCW 9.46.190.

7) Therefore, under Section 5(c) of the Tulalip Tribe/State Compact, RCW 9.46.075(1), (2), (8), (10) and (11), and WAC 230-03-085(1) and (8), grounds exist to revoke Scott Pacheco's certification.

VIOLATIONS:

Section 5(c) of the Tulalip Tribe/State Compact

The State Gaming Agency³ may revoke, suspend or deny a State certification under the provisions of RCW 9.46.075, and rules promulgated there under, or 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 a holder of certification:

(The following subsections apply.)

(i) 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 State Gaming Agency pursuant thereof, or any provision of a Tribal-State Compact;

³ Washington State Gambling Commission, as referred to in the Tulalip Tribal/State Compact, Section 2 (p).

- (vi) Fails to prove, by clear and convincing evidence, that he is qualified in accordance to the provisions of this section;
- (vii) Has had a Tribal license revoked or denied in the proceeding twelve months;

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 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;

For the purpose of reviewing any application for a license and for considering the denial, suspension or revocation of any license the gambling Commission may consider any prior criminal conduct of the applicant or licensee and the provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to such cases.

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 subsections apply.)

- (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 9.46.190 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
- (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.20.021.

RCW 9.46.153(1) Applicants, licensees-Responsibilities, and duties-Waiver of liability- Investigation statement as privileged.

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.

III.

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

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 a request for hearing will result in the entry of a default order REVOKING your certification.

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 13 day of January, 2012.

Michelle F. Rancour

NOTARY PUBLIC in and for the State of
Washington residing at Thurston County
My Commission expires on 10-19-15

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 13 day of January, 2012

Maurice Pretell
Communications and Legal Department
Washington State Gambling Commission

