

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the)
Certification to Conduct Gambling)
Activities of:)
)
Kenneth E. Francis)
Tacoma, Washington,)
)
Class III Employee.)
_____)

NO. CR 2012-00813

SETTLEMENT ORDER

The Washington State Gambling Commission and the Class III Employee,¹ Kenneth E. Francis, agree to this Settlement Order to resolve the administrative charges pending against him. Gregory J. Rosen, Assistant Attorney General, and Arlene Dennistoun, Staff Attorney, represent the Gambling Commission. Mr. Francis represents himself.

I.

The Washington State Gambling Commission issued Kenneth E. Francis the following certification: Number 69-21473, authorizing Class III Employee activity.

The certification expires on August 2, 2014, and was issued subject to Mr. Francis' compliance with state gambling laws and rules.

II.

On February 25, 2013, Kenneth E. Francis was served with the Notice of Administrative Charges. On March 15, 2013, he requested an Administrative Hearing on his revocation proceedings.

III.

SUMMARY:

On June 18, 2012, a surveillance observer at Great American Casino in Lakewood discovered that Mr. Francis took a purse from the pool hall area of the cardroom and hid it in his clothing while walking outside to the generator. He dropped a piece of paper, later discovered to be a paycheck from the purse's owner, in the foyer area of the casino. He also tossed the purse and all of its contents over the generator wall.

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.

FACTS:

- 1) Steve Thomas, the surveillance manager at the Great American Casino – Lakewood (GACL), notified Commission staff about an incident on June 18, 2012, and that had been captured on surveillance video.
- 2) At approximately 1:50 a.m., security guard Chris Jones notified Surveillance that he found an Emerald Queen Casino payroll check for approximately \$1,200 made out to Jaylene Rich inside the main entry of GACL. The check was provided to the cage for safekeeping.
- 3) Elizabeth Payne, a surveillance employee conducted a surveillance review shortly thereafter and verified that at 1:42 a.m. two men, later identified as Sarun Pich and Kenneth Francis, walked out the front doors. Mr. Francis appeared to be holding the check in his right hand and dropped it upon exiting the building.
- 4) Mr. Jones was informed by Security of two individuals standing at a wall near the generator. When he went outside to check on these two, Mr. Jones observed Mr. Francis dumping the contents of a purse over the generator wall. Surveillance video also clearly shows the two men talking and Mr. Francis tossing the purse contents.
- 5) At approximately 2:30 a.m., cashier Jeanette Gross notified surveillance that Jaylene Rich was at the cage asking for her check but could not verify her identity as her purse had been stolen. After a series of questions, Ms. Gross verified Ms. Rich as the owner and returned the check to her.
- 6) Ms. Payne then notified Mr. Jones that the check owner claimed her purse had been stolen. Further, that based upon surveillance review, it appeared that the purse and its contents could be found over the generator wall outside.
- 7) Ms. Payne requested that the floor supervisor, Karisa Jackson, stop Ms. Rich from leaving as they were investigating theft of a purse that might be hers.
- 8) At 2:50 a.m., shift Manager Ronald Johns returned the purse to Ms. Rich. Prior to its return, he reviewed the video and observed the purse being taken from the pool hall area, carried outside, and then it and its contents being tossed over the generator wall. He asked Ms. Rich to check for missing items and offered to allow her to phone the police to report the theft. Ms. Rich declined to report the theft and believed that all contents had been recovered.
- 9) On August 10, 2012, Mr. Pich was interviewed by two Washington State Gambling Commission Special agents. Mr. Pich confirmed that the purse was removed from the pool hall area of the casino but that, at the time, he believed the purse belonged to Mr. Francis' wife.
- 10) On August 10, 2012, Mr. Francis was also interviewed by agents. Mr. Francis confirmed his presence at the cardroom but indicated that his level of intoxication prevented him from remembering much about that particular night as he "blacked out."

VIOLATIONS:

1) Puyallup Tribal/State Compact Section V.E.

The State Gaming Agency² may revoke or suspend a State certification under the provisions of RCW 9.46.075, and rules promulgated thereunder, for any reason or reason it deems to be in the public interest. For example, these reasons shall include, but shall not be limited to when a holder of certification:

(The following subsection applies.)

(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 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.

2) 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 certified employee, 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;

3) 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, certified employee, or anyone holding a substantial interest in the applicant's or certified employee's business or organization:

(The following subsections apply.)

² Washington State Gambling Commission, as referred to in the Puyallup Tribal/State Compact, Section II (M).

(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.

4) RCW 9.46.153(1) Applicants and licensees - responsibilities and duties

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.

IV.

Kenneth E. Francis has waived his right to a hearing based on the terms and conditions of this Settlement Order and further agrees to the following:

1) Kenneth E. Francis shall surrender his Class III certification. **The signed Settlement Order and the certification must be received by Commission staff on or before August 19, 2013.**

These documents may be mailed to Commission Headquarters at the following address:

Washington State Gambling Commission
Attention: Communications and Legal Division
P.O. Box 42400
Olympia, WA 98504-2400

Or delivered (in person or via private courier) to the following address:

Washington State Gambling Commission
Attention: Communications and Legal Division
4565 7th Avenue SE; Fourth Floor
Lacey, WA 98503

2) In the event Mr. Francis subsequently applies for a certification or gambling license, he will be subject to all the Commission's investigative procedures for processing an application for a gambling license. Furthermore, no promises or assurances have been made to Mr. Francis that he will receive a certification or license from the Commission should he apply.

3) Mr. Francis shall have no involvement directly or indirectly, whether paid or unpaid, in the operation, ownership, or financing of any business in Washington State which is applying for, or holds, a gambling license or permit or is involved with any gambling activity, including punchboard/pull-tab activity. However, this does not prevent Mr. Francis from working in any non-gambling activity, such as employment in restaurants located in establishments engaged in authorized gambling activity.

DATED this 19th day of August, 2013.



Administrative Law Judge

By his signature, the certified employee understands and accepts the terms and conditions of this Order.

APPROVED FOR ENTRY:

K. Francis 8-19-13
Kenneth E. Francis (Date)
Class III Employee



Arlene Dennistoun, WSBA# 28760
Staff Attorney,
Washington State Gambling Commission

APPROVED AS TO FORM:

Gregory J. Rosen
Gregory J. Rosen, WSBA# 15870
Assistant Attorney General,
Representing the Washington State
Gambling Commission