STATE OF WASHINGTON
GAMBLING COMMISSION

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| In the Matter of the Revocation of the Certification to Conduct Gambling Activities of:<br><br>Kenneth E. Francis<br>Tacoma, Washington,<br><br>Class III Employee. | )<br>)<br>)<br>)<br>)<br>)<br>)<br>) | NO. CR 2012-00813<br><br>**NOTICE OF ADMINISTRATIVE CHARGES AND OPPROTUNITY FOR AN ADJUDICATIVE PROCEEDING** |

I.

The Washington State Gambling Commission issued Kenneth E. Francis certification number 69-21473, authorizing Class III Employee activity.[1] He is currently employed at the Emerald Queen Casino. Mr. Francis has not had any administrative action taken against his license in the past five years.

The Commission issued this license, which expires on August 2, 2013, subject to the certified employee's compliance with state gambling laws, Commission rules, and the Puyallup's Tribal/State Compact.

II.

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

**SUMMARY:**

On June 18, 2012, a surveillance observer at Great American Casino in Lakewood discovered that Kenneth E. 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.

**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.

[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) 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 Agency[2] 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.)

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[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.

By taking a purse from another patron, Kenneth E. Francis has demonstrated that he poses a threat to the effective regulation of gambling or increases the likelihood of unfair or illegal practices. Mr. Francis has failed to establish clearly and convincingly that he is qualified to be licensed, as required by RCW 9.46.153(1). As a result, grounds exist to revoke Kenneth E. Francis' certification under Puyallup Tribal/State Compact V.E., based on RCW 9.46.075(8) and (10), WAC 230-03-085(1) and (8).

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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 certified 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 22 day of February, 2013.

Maureen Pretell

NOTARY PUBLIC in and for the State of Washington residing at Thurston County
My commission expires on December 2, 2015

MAUREEN PRETELL
COMMISSION EXPIRES
NOTARY
PUBLIC
DEC. 2, 2015
STATE OF WASHINGTON

STATE OF WASHINGTON )
)
COUNTY OF THURSTON )

I certify I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy, property 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 25 day of February, 2013

Maureen Pretell