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Gambling Commission
Comm. & Legal Division

STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE GAMBLING COMMISSION

In the Matter of the Revocation of the
License to Conduct Gambling Activities
of:

FADY N. SALIB,
Tacoma, Washington,
License No. 69-33158

Licensee.

OAH No. 2013-GMB-0030
GC No. CR 2012-01725

INITIAL ORDER REVOKING
CLASS III CERTIFICATION

Administrative Law Judge Lisa N. W. Dublin conducted an administrative hearing in this matter on August 21, 2013, at the Gambling Commission Office, 4565 - 7th Avenue, Lacey, Washington.

Assistant Attorney General Gregory J. Rosen, and Paralegal Jennifer Stretch, appeared and represented the Washington State Gambling Commission ("Commission"). Appearing as witnesses on behalf of the Commission were as follows: Special Agent Kevin Maxwell, Gaming Regulation Agent Anthony Duenas, Surveillance Director Martin Hughes, Table Games Pit Manager Michael Markland, and Puyallup Tribal Police Officer Doug Johns.

Arabic Interpreter Fahmi Slail was also present.

Fady N. Salib ("Mr. Salib"), the Licensee, did not attend the hearing.

On November 8, 2012, the Puyallup Tribal Gaming Regulatory Office (PTGRO) issued Mr. Salib a Notice of Violation, Suspension, and Revocation of Class III-A Gaming License. This notice resulted from the PTGRO's determination that Mr. Salib's

arrest for stealing chips at the Emerald Queen Casino on November 8, 2012 violated two provisions of the Puyallup Tribal Gaming (PTG) Code, and constituted grounds for temporarily suspending Mr. Salib's Puyallup Tribal Gaming license, effective immediately. On December 12, 2012, due to Mr. Salib's PTG violations, and after Mr. Salib failed to timely request administrative review of the PTGRO's findings, the PTGRO permanently revoked Mr. Salib's PTG license.

Under Puyallup Tribal-State Compact Section V.E., and Washington State law, the Commission sought to revoke Mr. Salib's Class III Certification, and on March 8, 2013, mailed Mr. Salib a Notice of Administrative Charges and Opportunity for Adjudicative Proceeding. On March 18, 2013, Mr. Salib submitted a written request for administrative hearing. On May 9, 2013, the Commission mailed to Mr. Salib, at the address he requested, a Notice of Hearing.

At the hearing on August 21, 2013, the Commission offered 16 exhibits, numbered 1 through 16, all of which were admitted.

The Administrative Law Judge, having considered the evidence, now enters the following Findings of Fact:

FINDINGS OF FACT

1. Mr. Fady Salib is an individual who obtained his Class III Certification from the Commission in September 2011. Mr. Salib's Class III Certification, License No. 69-33158, was set to expire September 19, 2013.

2. At all times relevant hereto, Mr. Salib worked the night shift at the Emerald Queen Casino, where he operated a roulette table. The morning of Thursday,

November 8, 2012, upon his arrival at work at approximately 6:10 a.m., Gaming Agent Anthony Duenas was summoned to the surveillance office to observe video footage of Mr. Salib at his roulette table. Agent Duenas observed that, at approximately 4:00 a.m., Mr. Salib stood at the roulette table looking left and right, repeatedly adjusting his shirt collar, and unable to stand still. Agent Duenas then observed Mr. Salib reach for the black chips, each worth \$100.00, and place a black chip in his collar. Shortly after observing this footage, Surveillance Observer Holly Welch stated Mr. Salib just grabbed another black chip. Agent Duenas then observed Mr. Salib on camera, in real time, place this chip in his collar as well.

3. The casino then contacted Puyallup Tribal Police. Upon his arrival, Officer Doug Johns observed the above-described video footage of Mr. Salib, and arrested Mr. Salib at the roulette table prior to the end of his shift. Officer Johns brought Mr. Salib to the Shift Manager's office. There, Table Games Pit Manager Michael Markland told Mr. Salib he knew the chips were on Mr. Salib's person, and they would be found either there in the office, or at the police station. With Mr. Salib's permission, Mr. Markland unbuttoned Mr. Salib's vest, and untucked his shirt from his pants. Two black chips fell on the floor. Mr. Markland then asked Mr. Salib for his identification. Again with Mr. Salib's permission, Mr. Markland removed Mr. Salib's wallet from his pocket. When Mr. Markland opened Mr. Salib's wallet, Mr. Markland observed another black chip therein.

4. Officer Johns then transported Mr. Salib to the Pierce County Jail, where he was booked for third degree theft. (Ex. 13) On November 13, 2012, Mr. Salib was

charged with third degree theft. (Ex. 10) On February 6, 2013, Tacoma Municipal Court entered a stipulation and order for continuance of two years, which provided that the theft charge would be dismissed effective February 6, 2015 upon compliance with the terms of the order; however, if Mr. Salib did not comply with the order, findings would be entered and he would be sentenced for this crime. (Exs. 9, 11, and 12)

CONCLUSIONS OF LAW

From the foregoing Findings of Fact, the Administrative Law Judge now enters the following Conclusions of Law:

1. The Office of Administrative Hearings has jurisdiction to hear and initially decide this matter in an adjudicative proceeding. RCW 9.46.095; 34.05.485(1)(c), 34.12.030(1), and WAC 230-17-025.

2. Mr. Salib held a Class III Certification, and was subject to RCW 9.46.075, WAC 230-03-085, and the Puyallup Tribal-State Compact.

3. The Commission has the broad purpose of protecting the public by insuring that those activities authorized by Chapter 9.46 RCW do not maliciously affect the public and do not breach the peace. RCW 9.46.010.

4. The public policy of the state of Washington on gambling is to keep the criminal element out of gambling and to promote the social welfare of the people by limiting the nature and scope of gambling activities by strict regulation and control. The Commission is required to closely control all factors incident to the activities authorized in Chapter 9.46 RCW, and the provisions of Chapter 9.46 RCW are to be liberally construed to achieve those ends. RCW 9.46.010.

5. The Commission bases its proposed revocation of Mr. Salib's Class III Certification on the provisions of RCW 9.46.075(1), (8), (9) and (10); RCW 9.46.153(1); WAC 230-03-085(1), (3), and (8); and Tribal-State Compact for Class III Gaming, Puyallup Tribe of Indians – State of Washington, Sections V.E.1 and V.E.3.

6. RCW 9.46.075 is the Commission's legislative grant of authority to deny, suspend, or revoke gambling licenses or permits. According to RCW 9.46.075,

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:

- (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 [chapter 9.46 RCW];
- (9) Is subject to current prosecution or pending charges...for any of the offenses included under subsection (4) of this section¹; or
- (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

¹ Subsection (4) identifies the following offenses: forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude.

(c) is subject to prosecution for a gross misdemeanor, i.e. theft, a crime involving moral turpitude; and

(d) failed to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of [chapter 9.46 RCW]. RCW 9.46.075. In addition, the Commission has proven by a preponderance of the evidence that Mr. Salib's gambling license should be revoked because he willfully disregarded state law, including the criminal code. This unlawful behavior increases the likelihood of future unfair or illegal practices, methods, and activities in the conduct of gambling activities. WAC 230-03-085(3),(8).

13. Mr. Salib failed to establish, by clear and convincing evidence, his continuing qualifications for licensure. On November 8, 2012, Mr. Salib was found in wrongful possession of three black chips worth \$100.00 each, two of which he appeared on video to have taken from the roulette table and pushed down his shirt. Mr. Salib did not attend the hearing to testify about his possession of these chips. Nor did he submit documentary or other evidence contradicting the Commission's position.

14. I conclude that the Commission has proved by a preponderance of the evidence that the revocation of Mr. Salib's Class III Certification is in the public interest. Mr. Salib's knowing and repeated disregard of state laws and regulations, and the Tribal-State Compact, in wrongfully possessing three black chips valued at \$300.00 establishes that Mr. Salib poses a threat to the effective regulation of gambling in Washington State. The Commission has proved the elements of RCW 9.46.075(1), (8), (9) and (10), WAC 230-03-085(1), (3), and (8), and Tribal-State Compact Section V.E.

From the foregoing conclusions of law, NOW THEREFORE,

INITIAL ORDER

IT IS ORDERED that Mr. Salib's Class III Certification is REVOKED.

DATED at Tacoma, Washington, this 21st day of October, 2013.



Lisa N. W. Dublin
Administrative Law Judge
Office of Administrative Hearings

NOTICE TO THE PARTIES

Initial orders must be entered in accordance with RCW 34.05.461(3). WAC 230-17-085(1). An initial order becomes the final order unless a party files a petition for review of the initial order as explained in WAC 230-17-090. WAC 230-17-085(2).RCW 34.05.464 governs the review of initial orders. WAC 230-17-090(1). Any party to an adjudicative proceeding may file a petition for review of an initial order. Parties must file the petition for review with us within twenty days of the date of service of the initial order unless otherwise stated. Parties must serve copies of the petition to all other parties or their representatives at the time the petition for review is filed. WAC 230-17-090(2). Petitions must specify the portions of the initial order the parties disagree with and refer to the evidence in the record on which they rely to support their petition. WAC 230-17-090(3). Any party to an adjudicative proceeding may file a reply to a petition for review of an initial order. Parties must file the reply with us within thirty days of the date of service of the petition and must serve copies of the reply to all other parties or their representatives at the time the reply is filed. WAC 230-17-090(4). Any party may file a cross appeal. Parties must file cross appeals with us within ten days of the date the petition for review was filed with us. WAC 230-17-090(5). Copies of the petition or the cross appeal must be served on all other parties or their representatives at the time the petition or appeal is filed. WAC 230-17-090(6). After we receive the petition or appeal, the commissioners review it at a regularly scheduled commission meeting within one hundred twenty days and make a final order. WAC 230-17-090(7).

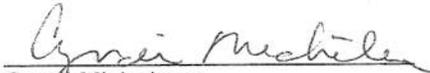
Copies were sent to each of the following:

Certificate of Service – OAH Docket No. 2012-GMB-0058

I certify that true copies of this document were served from Tacoma, Washington on the following as indicated.

Fady N. Salib 4515 S. L Street Tacoma, WA 98418	First Class Mail, Postage Prepaid
Gregory J. Rosen Assistant Attorney General Office of the Attorney General PO Box 40100 Olympia, WA 98504	First Class Mail, Postage Prepaid
Washington State Gambling Commission Communications and Legal Department PO Box 42400 Olympia, WA 98504-2400	First Class Mail, Postage Prepaid

Date: October 21, 2013


Cyndi Michelena
Office of Administrative Hearings