



The license and certification expire on October 5, 2013, and were issued subject to Mr. Lang's compliance with the state gambling laws and rules, and respectively the Stillaguamish Tribal/State Compact.

### III.

After a thorough review of the report by a Commission Special Agent about the facts in this matter, the Director accepts the report as true and has determined that the summary suspension is necessary.

### IV.

#### **SUMMARY:**

Nicholas L. Lang had his Stillaguamish Tribal license revoked by the Stillaguamish Tribal Gaming Commission (SGC) after an internal investigation found Mr. Lang had a customer sign for a promotional prize she did not receive and then took the money for himself. Mr. Lang transferred to The Hideaway Restaurant as a card room employee after his tribal license was revoked.

#### **FACTS:**

- 1) On April 30, 2013, a Washington State Gambling Commission Special Agent (agent) was notified that the Stillaguamish Tribal Gaming Commission was going to revoke Mr. Lang's Tribal license. The agent was told Mr. Lang had stolen some Poker Room promotional money. The agent called the Stillaguamish Tribal Gaming Agency (STGA) and talked with Star Whiteflower, Licensing Manager. She confirmed they were pursuing revocation and that she would submit a Personnel Termination Notification (PTN) indicating Mr. Lang was terminated.
- 2) On June 5, 2013, the agent spoke with STGA Director LeWana Bruner and asked the status of Mr. Lang's revocation case. She told the agent they had revoked his license and would send the agent the paperwork.
- 3) On June 6, 2013, the agent received the Notice of Tribal License Suspension, Denial, or Revocation from the SGC, which was dated May 16, 2013. The letter informed Mr. Lang that his gaming license was revoked and he had 15 days to respond with a request for a hearing.
- 4) The agent reviewed a letter from SGC to Mr. Lang dated June 5, 2013, stating they had not received a response from their certified letter. As he had not responded, the case was closed by an Order of Default. Also attached was an Angel of the Winds Casino voucher, indicating that \$200 had been paid to the casino from Mr. Lang in way of restitution for the Poker Room theft on April 16, 2013.

5) The agent reviewed the case report and attachments and found the following:

- At approximately 5:00 p.m. on April 16, 2013, a customer told Kathy Marsh, Poker Room Manager, that she was playing poker at approximately 6:00 a.m. that day and had the high hand for the hour.<sup>3</sup> The customer told Ms. Marsh that Mr. Lang had her sign the promotional voucher, and she was paid \$200. After being paid, Mr. Lang said the customer signed the wrong jackpot voucher and had her sign another one. Mr. Lang told her he was going to void the first one and take care of it. The customer is a poker dealer at another property and is familiar with how jackpots are paid out. She felt as if there was something odd with the transaction.
- Ms. Marsh checked the jackpot logs and saw there were two jackpots attributed to the customer that morning. One jackpot was from 4:00 a.m. to 5:00 a.m., and the other was from 5:00 a.m. and 6:00 a.m. Next, she checked with the cage to see if Mr. Lang's cash drawer was over or short for the shift and found it wasn't.
- When Mr. Lang came in to work, Ms. Marsh called him into her office. She told him about the jackpots and wanted him to explain. At first, Mr. Lang denied any wrong doing, but then closed the office door and admitted to the \$200 theft. Mr. Lang told her he was having financial issues and was asking Ms. Marsh to cover up the theft and not report it. She told Mr. Lang she would not compromise her integrity to cover up a theft, and Mr. Lang became increasingly upset and desperate. He stood between her and the door and would not let her leave the office. Ms. Marsh felt afraid for her safety and after approximately 40 minutes of Mr. Lang begging her not to report the incident, she was finally able to leave the office. She told Mr. Lang to put his badge on her desk and leave the casino.
- The Poker Dealers working at the time were asked to provide written statements. Both dealers said that there were no qualifying hands for the high hand promotion between 4:00 a.m. and 5:00 a.m.
- A Stillaguamish Tribal Police Officer called Mr. Lang. He tried to get Mr. Lang to come in and make restitution and provide a statement. Mr. Lang told him he still had the \$200, but if he made restitution, it would be an admission of guilt.
- Surveillance was notified of the incident and reviewed the video. According to the report, the video shows Mr. Lang had the customer sign the first jackpot voucher at approximately 5:48 a.m. and the second voucher at approximately 5:50 a.m. At 6:07 a.m., Mr. Lang took the promotional vouchers to the cage and exchanged them for cash. He then proceeded to the manager's office with the cash in his hand. He came out of the office about 10 seconds later just carrying a clipboard and left it with the cage cashier.

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<sup>3</sup> The "You Pick High Hand" is a Poker Room promotion and special bonuses are given to high hands during specified times.

6) On April 22, 2013, Attorney Adam Yanasak, representing Mr. Lang, called a Stillaguamish Tribal Police Officer about making restitution to the casino. The attorney agreed that the \$200 be withheld from Mr. Lang's final paycheck and asked if the State Gaming Agency<sup>4</sup> (SGA) was going to investigate. Mr. Yanasak was told SGC has the primary investigative responsibility, but is required to notify SGA. Mr. Yanasak requested SGC contact him if they need any more information regarding Mr. Lang.

7) The agent continued the investigation by reviewing the surveillance video and verified Mr. Lang did have the customer sign something two times around 5:49 a.m. and 5:50 a.m. The agent could not see what the customer actually signed. However, the agent saw Mr. Lang leave the cage around 6:07 a.m. with money in his hand. It appeared that he still had that money in his hand when he dropped the clipboard back at the cage a minute or two later.

8) On June 14, 2013, Commission staff received an add/transfer application for Mr. Lang to work at the The Hideaway Restaurant in Shoreline. Mr. Lang actually signed the application on May 10, 2013, but The Hideaway Restaurant did not submit it until June 14, 2013. Mr. Lang marked the "yes" box on the application in response to the question, "Since your last application, have you been charged with a crime, paid a fine, been arrested, jailed, convicted, gone through diversion or placed on probation?" However, the "yes" response also required Mr. Lang attach a statement of explanation, which he failed to do. Additionally, Mr. Lang failed to report the revocation action filed against him on May 16, 2013. Commission staff contacted The Hideaway Restaurant and found out the transfer application had been misplaced under other documents, and Mr. Lang had not worked for them yet.

## CONCLUSIONS OF LAW

### I.

1) **RCW 9.46.070** provides that the Commission shall have the following powers and duties: The Commission may authorize the Director to temporarily suspend licenses subject to final action by the Commission.

2) **WAC 230-17-165(2)** provides that the Commission delegates its authority to the Director to summarily suspend any license if the Director determines that a licensee has performed one or more of the actions identified in RCW 9.46.075 as posing a threat to public health, safety, or welfare.

3) **WAC 230-17-165(3)** The Commission deems the following actions of a licensee constitute an immediate danger to the public safety and welfare:  
(The following subsections apply.)

(a) Failing or refusing to comply with the provisions, requirements, conditions, limitations, or duties imposed by chapter 9.46 RCW or any rules adopted by the Commission;

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<sup>4</sup> Washington State Gambling Commission, as referred to in the Stillaguamish Tribal/State Compact.

(i) Having pursued or 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.

While employed at the Stillaguamish Angel of the Winds Casino, Mr. Lang stole at least \$200 from the casino by having a player sign for a high hand promotion. However, Mr. Lang took the cash for himself, which resulted in the revocation of his tribal license by the SGC. His actions constitute an immediate danger to public safety and welfare based on WAC 230-17-165(2) and (3) (a), and (i).

#### **4) Stillaguamish Tribal/State Compact**

Section V.C. of the Tribal-State Compact states the State Gaming Agency may revoke, suspend or deny a State certification for any reason it deems to be in the public interest. These reasons shall include when the holder of certification:

V.C.1. is determined to be a person who because of prior activities, criminal record, if any, or reputation, habits and associations poses a threat to the effective regulation of gaming or creates or enhances the chances of unfair or illegal practices, methods and activities used in the conduct of the gaming activities permitted pursuant to this compact.

V.C.2 has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by any provision of a Tribal-State Compact.

V.C.4. has demonstrated a willful disregard for compliance with gaming regulatory authority in any jurisdiction, including offenses that could subject the individual or entity to suspension, revocation or forfeiture of a gaming license.

#### **5) RCW 9.46.075 Denial, suspension, or revocation of certification, 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.

(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.

**6) 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.)

(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.

**7) RCW 9.46.170 False or misleading entries or statements, refusal to produce records.**

Whoever, in any application for a license or in any book or record required to be maintained by the commission or in any report required to be submitted to the commission, shall make any false or misleading statement, or make any false or misleading entry or wilfully fail to maintain or make any entry required to be maintained or made, or who wilfully refuses to produce for inspection by the commission, or its designee, any book, record, or document required to be maintained or made by federal or state law, shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021.

**8) 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;
- (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.

**9) 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.

**10) WAC 230-06-090 Report administrative and civil actions filed.**

(The following subsection applies.)

(1) All licensees must report to us in writing within thirty days all administrative actions filed against them by other gambling regulatory agencies, including those from other countries and Indian tribes.

While employed at the Stillaguamish Angel of the Winds Casino, Mr. Lang stole at least \$200 from the casino by having a player sign for a high hand promotion. However, Mr. Lang took the cash for himself in violation of RCW 9.46.190, which resulted in the revocation of his tribal license. Mr. Lang failed to report the revocation action filed against him on May 16, 2013, in violation of RCW 9.46.170, and WAC 230-06-090. Mr. Lang has failed to establish by clear and convincing evidence that he is qualified, as required by RCW 9.46.153(1). As a result, there are grounds to revoke Nicholas Lang’s license and certification based on the Stillaguamish Tribal/State Compact, RCW 9.46.075(1), (8), and (10), and WAC 230-03-085(1) and (8).

II.

The licensee/certified employee’s actions are an immediate danger to public safety and welfare, and he has failed to comply with the Stillaguamish Tribal/State Compact, chapter 9.46 RCW and Commission rules. The immediate suspension of Nicholas Lang’s license and certification to conduct gambling activity is required to protect public safety and welfare.

**ORDER**

Based on the FINDINGS OF FACT AND CONCLUSIONS OF LAW and the Director’s authority under RCW 34.05.422, RCW 9.46.070(17), and WAC 230-17-165, the Director orders that Nicholas Lang’s license and certification are summarily suspended, pending a formal hearing by an Administrative Law Judge.

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