

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the)
Certification to Conduct Gambling Activities of:)
Jaaken L. Martinez)
Spokane, Washington,)
Class III Employee.)

NO. CR 2013-01999

**NOTICE OF ADMINISTRATIVE
CHARGES AND OPPORTUNITY
FOR AN ADJUDICATIVE
PROCEEDING**

I.

The Washington State Gambling Commission issued Jaaken L. Martinez the following certification:¹

Number 69-19269, authorizing Class III Employee activity, formerly with the Kalispel Tribe's Northern Quest Casino.

The certification expires on July 11, 2014, and was issued subject to Jaaken L. Martinez's compliance with the Kalispel Tribal/State Compact, state gambling laws, and rules.

II.

David Trujillo, Director of the Washington State Gambling Commission, charges Jaaken L. Martinez with the following violations of the Kalispel Tribal/State Compact, Washington State Gambling Act, 9.46 RCW, and WAC Title 230:

SUMMARY:

On October 2, 2013, Mr. Martinez's Tribal license was revoked by the Kalispel Tribal Gaming Agency due to a pattern of infractions over several months including exposing the bottom of the deck during shuffling, improperly turning over his hole card, exposing his hole card, and watching television while dealing.

FACTS:

1) After Mr. Martinez's license from the Kalispel Tribal Gaming Board was revoked on October 2, 2013, a Gambling Commission Special Agent was assigned to evaluate whether Mr. Martinez continued to qualify for certification.

¹ Class III Employee 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) As part of the investigation, the agent reviewed the following records provided by the Kalispel Tribal Gaming Agency (KTGA):

1. Compliance Incident Reports;
2. DVD footage from September 26, 2013;
3. Corrective Action documentation;
4. Screen shots of Surveillance Department infractions reports on Mr. Martinez;
5. Screen shots of Compliance Department infraction reports on Mr. Martinez;
6. A sample of the infraction reports;
7. A letter to Mr. Martinez notifying him that his KTGA license was summarily suspended;
and
8. The Notice of Gaming Board Action revoking his license.

3) The surveillance footage for September 26, 2013, is consistent with the Compliance Incident Report for Incident Number 13-0652 provided by the KTGA and shows that Mr. Martinez failed to follow several procedures in place to thwart cheating. These included exposing his "hole" card to the player and failing to offer insurance to the player.² The Compliance Incident Report noted that the Tribal Gaming Agent would be "going back as far as allowed on days Jaaken worked to find any infractions of like occurrence to the one described above. All of Jaaken's previous infractions will be printed out and reviewed."

4) The Compliance Incident Report for incident number 13-0661 states that it was completed subsequent to the investigation into "previous incidents and infractions by Jaaken to determine if there is a pattern taking place in his infractions." The investigator concluded that "about all of Jaaken's infractions ... fall under a game security violation." Samples of these numerous infractions as documented in KTGA Infraction Reports were provided to the agent and include exposing the bottom of the deck during shuffling, improperly offering insurance, improperly turning over his hole card, exposing his hole card, and watching television while dealing. The investigator concluded that "Jaaken could be a target of a potential cheat coming into the casino. His lack of attention to dealing procedures and his history of game security type infractions backs up this conclusion."

5) Even though Mr. Martinez was terminated from the Northwest Quest Casino and his KTGA license was revoked, his certification remains active. As long as his certification is active, he could transfer to a different tribal casino, or to a house-banked card room.

² When playing blackjack and the dealer turns up an ace, insurance is a side-bet, where the player is offered 2:1 odds that the dealer has a 10-valued card underneath ("in the hole").

VIOLATIONS:

1) Section V.C. of the Kalispel 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 thereunder, 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.)

(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 being used in the conduct of the gaming activities permitted pursuant to this Compact;

(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.

(4) Has had a Tribal or State gaming license revoked or denied during the twelve (12) months prior to the date the Tribe received the application; is currently on probation imposed by any jurisdiction; or has demonstrated a willful disregard or failed to comply with the requirements of any gaming regulatory authority in any jurisdiction, including offenses that could subject the individual or entity to suspension, revocation or forfeiture of any gaming license. For the purpose of reviewing any application for a state certification or for considering the denial, suspension or revocation of any state certification the State Gaming Agency may consider any proper criminal conduct or current probationary status of the applicant or holder of certification and the provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to such cases.

2) RCW 9.46.075 Denying, suspending, or revoking an application, license 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.

³ Washington State Gambling Commission, as referred to in the Kalispel Tribal/State Compact, Section II (Y).

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, 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.

4) RCW 9.46.153 Applicants and licensees-Responsibilities and duties

(The following subsection applies.)

(1) 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.

Jaaken L. Martinez poses a threat to the effective regulation of gambling as demonstrated through game security violations. Mr. Martinez has failed to show he is qualified for certification, in violation of 9.46.153. Therefore, under the Kalispel Tribal/State Compact, RCW 9.46.075 (1), (8), and WAC 230-03-085 (1), and (8), grounds exist to revoke Jaaken L. Martinez's certification.

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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)

David Trujillo, 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.

David Trujillo

DAVID TRUJILLO, DIRECTOR

SUBSCRIBED AND SWORN TO before me
this 4 day of December, 2013.

Maureen Pretell

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



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 4 day of December, 2013
Maureen Pretell