

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the)
Certification to Conduct Gambling)
Activities of:)
)
Thien D. Nguyen)
Bellingham, Washington,)
)
Class III Employee.)
_____)

NO. CR 2013-02152

AMENDED
NOTICE OF ADMINISTRATIVE
CHARGES, AND OPPORTUNITY FOR
AN ADMINISTRATIVE HEARING
(Amendments appear in italics
and strikeouts)

I.

The Washington State Gambling Commission issued Thien D. Nguyen certification¹ number 69-34773, authorizing Class III Employee activity, formerly at the Nooksack Tribe's Nooksack River Casino.

The Commission issued this certification, which expires on December 9, 2013, subject to the certified employee's compliance with state gambling laws and Commission rules.

II.

David Trujillo, Director of the Washington State Gambling Commission, charges the Class III employee with the following violations of the Nooksack Tribal/State Compact, Washington State Gambling Act, 9.46 RCW, and WAC Title 230.

SUMMARY:

On August 2, 2013, Thien D. Nguyen was charged with Unlawful Imprisonment – Domestic Violence and Assault 4th Degree. ~~These charges are pending.~~ Mr. Nguyen held a tribal license through the Nooksack Tribal Gaming Commission to work at Nooksack River Casino as a table games dealer. His employment was terminated on August 26, 2013. *On February 3, 2014, a Statement on Plea of Guilty was filed.*

FACTS:

1) The Nooksack Tribal Gaming Commission (NTGC) notified the Washington State Gambling Commission of Mr. Nguyen's pending criminal history. The NTGC did not take any action on his tribal license, but Mr. Nguyen resigned from the casino not long after the criminal charges were filed. Even though he is not working, his certification remains active.

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) A Washington State Gambling Commission Special Agent (agent) reviewed Mr. Nguyen's file and saw that his case was set for trial on October 28, 2013 and then continued until December 2, 2013. The agent requested certified court documents from Whatcom Superior Court.

3) On August 2, 2013, an Information was filed charging Mr. Nguyen with the following:

- Count I – Unlawful Imprisonment, Domestic Violence. On or about July 30, 2013, Mr. Nguyen knowingly restrained another person who was either in his family or was a household member.
- Count II – Assault 4th Degree, Domestic Violence. On or about July 30, 2013, Mr. Nguyen knowingly assaulted another person who was either in his family or was a household member.

4) On August 2, 2013, an Affidavit of Probable Cause Determination was filed. It states the following:

- On July 30, 2013, the Whatcom County Sheriff's Office responded to a home for a report of a domestic dispute. When Deputies arrived at the home, the homeowner told them that the victim had come to her house barefoot and asked her to call 911 because her husband had assaulted her.
- The victim appeared to be frightened and kept herself inside the threshold of the doorway and kept looking at the house next door where she lived. "She appeared to have been crying as her eyes were puffy and she was barefoot." She told Deputies that she had been staying in Seattle the past couple of weeks for work. She said her husband does not approve of how much time she spends there so he drove down the night before to pick her up. He waited outside until she arrived early in the morning and then drove her back to their residence.
- Once they were back at the residence, Mr. Nguyen went into her purse and took her resident alien and social security cards. They started arguing and Mr. Nguyen kicked her in the side of the head. Their two children witnessed it. She said that Mr. Nguyen eventually fell asleep so she went over to the neighbor's house to call 911. She had to wait until Mr. Nguyen fell asleep because he told her that if she left the house, he would "cut her" with a knife. She was afraid to leave.
- She reported that two weeks earlier Mr. Nguyen had assaulted her by pressing a knife against her abdomen, and he had punched her in the face. She also said that about three weeks ago, Mr. Nguyen had hit her on the shoulder with a stick.

5) Mr. Nguyen denied any assault had occurred and that he took the cards from his wife's purse. ~~The case is still pending, and a trial date is scheduled for December 2, 2013. On February 3, 2014, a Statement on Plea of Guilty was filed. The document states, Mr. Nguyen was charged with Assault Third Degree- Domestic Violence.~~

VIOLATIONS:

1) Nooksack Tribal/State Compact

Section 5(c) of the Tribal-State Compact states the SGA² 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:

Section 5(d)(i) has violated RCW 9.46.075 or any rules adopted by the SGA, or any provision of Tribal-State Compact;

Section 5(d)(vi) has failed to prove, by clear and convincing evidence, that he is qualified with the provisions of this chapter.

2) 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.

(4) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, wilful 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;

(8) Fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter.

~~(9) Is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses included under subsection (4)³ of this section: PROVIDED, That at the request of an applicant for an original license, the commission may defer decision upon the application during the pendency of such prosecution or appeal.~~

² Washington State Gambling Commission, as referred to in Section II.V. of the Tribal-State Compact for Class III Gaming between the Jamestown S'Klallam Indian Nation.

³~~(4) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, wilful 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.~~

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.)

(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; and
- (b) Criminal record;
- (c) Reputation; or
- (d) Habits.

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. The certified employee's pending criminal charges demonstrate that the Class III employee poses a threat to the effective regulation of gambling, creates, or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities.

6) Thien D. Nguyen has failed to establish clearly and convincingly that he is qualified for licensure, as required by RCW 9.46.153(1). On August 2, 2013, Mr. Nguyen was charged with Unlawful Imprisonment – Domestic Violence and Assault 4th Degree – Domestic Violence. ~~These charges are pending. Mr. Nguyen was charged with Assault Third Degree- Domestic Violence.~~ As a result, there are grounds to revoke Thien D. Nguyen's certification based on the Nooksack's Tribal/State Compact, RCW 9.46.075(1), (4), (8), and (9), and 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, WAC Title 230, and the Nooksack Tribal/State Compact.

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 *Amended* 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 11 day of April, 2014.

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 14 day of April, 2014
Maureen Pretell