

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the)
Certification to Conduct Gambling Activities of:)
)
)
Brian C. Zepeda)
Puyallup, Washington,)
)
)
Class III Employee.)
_____)

NO. CR 2013-01791

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

I.

The Washington State Gambling Commission issued Brian C. Zepeda the following certification:¹
Number 69-18808, authorizing Class III Employee activity, formerly with the Nisqually Red Wind Casino.

The certification expires on May 3, 2014, and was issued subject to Brian C. Zepeda's compliance with the Nisqually Tribal/State Compact, state gambling laws, and rules.

II.

David Trujillo, Director of the Washington State Gambling Commission, charges Brian C. Zepeda with the following violations of the Nisqually Tribal/State Compact, Washington State Gambling Act, 9.46 RCW, and WAC Title 230:

SUMMARY:

On March 5, 2013 Brian C. Zepeda was found guilty of Assault in the Fourth Degree. The conviction under appeal stems from an incident when Mr. Zepeda beat a female acquaintance. He also pled guilty to violation of a No Contact/Protection Order.

FACTS:

1. Mr. Zepeda has been certified since May 4, 2004, to present, and he held a Public Card Room Employee license from May 13, 2011, through May 3, 2013.

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. On April 23, 2013, Mr. Zepeda submitted a renewal application for his Class III Certification. At the time of renewal, he was employed by the Nisqually Red Wind Casino. As part of the investigation, a Gambling Commission Special Agent (agent) reviewed Mr. Zepeda's licensing history.
3. Mr. Zepeda's criminal history was reviewed as a routine part of his renewal process using the JIS (Judicial Information System)². The agent noted that a No Contact/Protection Order violation was pending. He also noted a March 5, 2012, District Court conviction for an Assault 4th Degree on appeal to Thurston County Superior Court. According to witness statements in the police reports, Mr. Zepeda was observed slapping and pushing the head of a woman against a Silver Jetta, punching her, and grabbing her hair for approximately 30 minutes.
4. While awaiting the judicial conclusions of the pending No Contact/Protection Order violation and Superior Court appeal, the agent forwarded Mr. Zepeda's certification for renewal.
5. On July 8, 2013, the agent reviewed JIS again and discovered that Mr. Zepeda pled guilty to the pending violation of a No Contact/Protection Order on May 1, 2013. The agent contacted the Nisqually Tribal Gaming Agency (NTGA) to notify them of the findings. During the call, the agent learned that the NTGA terminated Mr. Zepeda, and a Personnel Termination Notification had been sent to Commission staff on June 26, 2013. The agent reviewed the Gambling Commission's database, and noted that Mr. Zepeda was not yet employed at another casino.
6. The agent subsequently requested court records from the Thurston County District Court, which he received on August 13, 2013. The agent was unable to speak with the Prosecutor until September 16, 2013, concerning the May 2013 No Contact/Protection Order violation. The agent learned that the violation was based upon a Chehalis Tribal Police report.
7. On September 19, 2013, the agent received copies of the Chehalis Tribal Police report. The report stated the responding officer stopped Mr. Zepeda in his vehicle and did a wants and warrants check. The officer arrested Mr. Zepeda after he found that Mr. Zepeda's female passenger had an active No Contact Order on file against Mr. Zepeda.
8. The agent also noted a 2008 Assault 4 Charge from Lakewood and a 1998 Violation of Protection Order charge from Puyallup.
9. Police reports for the 2008 charge were received on September 19, 2013. According to the police reports, the 2008 charge stemmed from domestic violence. The charge was resolved by a Stipulated Order with dismissal based upon Mr. Zepeda's compliance.

² The Judicial Information System is the primary information system for courts in Washington. It provides case management automation to appellate, superior, limited jurisdiction and juvenile courts.

10. The certified court docket and police reports for the 1998 incident were received on September 20 and September 26, 2013, respectively. According to the police reports, the 1998 charge stemmed from violation of protection order to which Mr. Zepeda pled guilty.
11. On October 16, 2013, the agent received a Class III transfer/Add Employer application for Mr. Zepeda to work at the Golden Nugget Casino in Tukwila. On the application, Mr. Zepeda acknowledged "hav[ing] been charged with a crime, pa[ying] a fine, be[ing] arrested, jailed convicted, go[ing] through diversion or [being] placed on probation." In his statement of explanation Mr. Zepeda noted that "the police were called for Domestic Dispute. The police came, since the police came, somebody had to go to jail, and that was me."
12. The agent consulted JIS again on October 31, 2013, and noted that the Superior Court appeal was still pending.

VIOLATIONS:

1) Section V.C. of the Nisqually Tribal/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 there under, 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 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 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.

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

(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) 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;

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.

(2) Has been convicted of, or forfeited bond on a charge of, or pleaded guilty to a misdemeanor or felony crime involving physical harm to individuals. "Physical harm to individuals" includes any form of criminal assault, any crime involving a threat of physical harm against another person, or any crime involving an intention to inflict physical harm on another person;

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level;

(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.

Brian C. Zepeda poses a threat to the effective regulation of gambling demonstrated through a history of inflicting physical harm on others and by a willful disregard of court No

Contact/Protection Orders. Mr. Zepeda has failed to show he is qualified for certification, in violation of 9.46.153. Therefore, under the Nisqually Tribal/State Compact, RCW 9.46.075 (1), (4), (8), and (9) and WAC 230-03-085 (1), (2), (3) and (8), grounds exist to revoke Brian C. Zepeda's certification.

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 8 day of November, 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 8 day of November, 2013

Maureen Pretell

