

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

SETTLEMENT ORDER

The Washington State Gambling Commission and the Class III Employee,¹ Brian C. Zepeda, consent to this Settlement Order to resolve the administrative charges pending against him. Gregory J. Rosen, Assistant Attorney General, and Melinda Froud, Lead Staff Attorney, represent the Gambling Commission staff. Mr. Zepeda is represented by his attorney, Matthew Stanley.

I.

The Washington State Gambling Commission issued Brian C. Zepeda the following certification: 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 Mr. Zepeda's compliance with state gambling laws and rules.

II.

On November 8, 2013, Brian C. Zepeda was served with the Notice of Administrative Charges. On November 21, 2013, a Notice of Appearance was received from attorney Thomas Olmstead. On November 22, 2013, an Administrative Hearing was requested.

III.

SUMMARY:

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

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.

VIOLATIONS:

1) Section V.C. of the Nisqually Tribal/State Compact

The State Gaming Agency² 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.

(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

² Washington State Gambling Commission, as referred to in the Nisqually Tribal/State Compact, Section II (U).

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.

IV.

Brian C. Zepeda has waived his right to a hearing based on the terms and conditions of this Settlement Order and further agrees to the following:

- 1) Brian C. Zepeda agrees to surrender his Class III certification effective April 15, 2014.
- 2) The parties agree that Mr. Zepeda may reapply for a card room employee license and/or

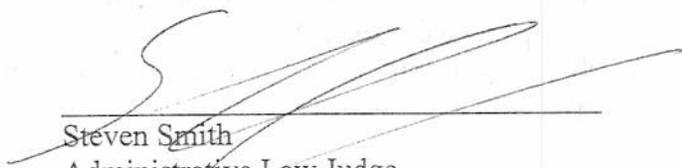
Class III employee license on or after May 1, 2015, so long as the following conditions are met:

- a. All terms and conditions of Mr. Zepeda's court-ordered obligations and requirements that were imposed in the Judgments and Sentences for his (1) Fourth Degree Assault and (2) Violation of No Contact Order convictions must be successfully completed.
- b. Mr. Zepeda shall have no disqualifying acts for licensure on or after the date of this agreement.
- c. Mr. Zepeda agrees not to file any lawsuits arising out of this case (including but not limited to an action under 42 U.S.C. Section 1983) against the Washington State Gambling Commission or any of the Commission's employees.

3) In the event Mr. Zepeda subsequently applies for a certification or gambling license, he will be subject to all the Commission's investigative procedures for processing an application for a gambling license. However, any acts or criminal convictions that occurred prior to the date of this agreement will not be considered by the Commission when determining whether Mr. Zepeda qualifies for a license or certification.

4) Prior to re-licensing, Mr. Zepeda shall have no involvement directly or indirectly, whether paid or unpaid, in the operation, ownership, or financing of any business in Washington State which is applying for, or holds, a gambling license or permit or is involved with any gambling activity, including punchboard/pull-tab activity. However, this does not prevent Mr. Zepeda from working in any non-gambling activity, such as employment in restaurants located in establishments engaged in authorized gambling activity.

DATED this 15th day of April, 2014.



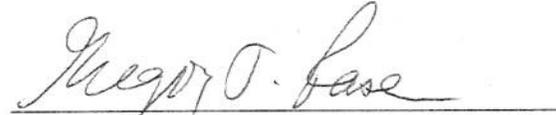
Steven Smith
Administrative Law Judge

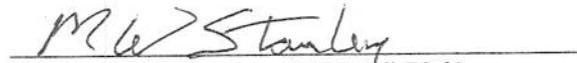
By his signature, the certified employee understands and accepts the terms and conditions of this Order.

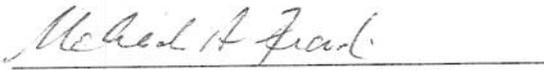
APPROVED FOR ENTRY:


Brian C. Zepeda (Date)
Class III Employee

APPROVED AS TO FORM:


Gregory J. Rosen, WSBA# 15870
Assistant Attorney General,
Representing the Washington State
Gambling Commission


Matthew W. Stanley, WSBA# 7261
Attorney for the Certified Employee


Melinda A. Froud, WSBA# 26792
Lead Staff Attorney
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