

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the Class III)
Certification to Conduct Gambling Activities of:)
)
Silas Cleveland)
Winnebago, NE,)
)
Class III Employee.)
_____)

NO. CR 2009-01854

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

I.

The Washington State Gambling Commission issued Silas Cleveland the following Class III Employee certification:¹

- 69-30573, Authorizing Class III Employee Activity, for the Yakama Nation.

The certification expires on October 12, 2010, and was issued subject to the certified employee's compliance with state gambling laws, rules, and the Yakama Nation Tribal-State Compact.

II.

Rick Day is the Director of the Washington State Gambling Commission, charges the Class III Employee with violations of the Washington State Gambling Act, 9.46 RCW, and WAC Title 230.

SUMMARY:

The certified employee failed to disclose on his application for certification that his gaming license had been suspended by the Winnebago Gaming Commission.

FACTS:

1) On October 5, 2009, Silas Cleveland applied for certification. His certification was approved on October 12, 2009. On December 30, 2009, his file was assigned to a Commission Special Agent (agent) to determine his suitability for a Class III Certification, after the Yakama Nation Gaming Commission (YNGC) notified Commission staff that his tribal application had been denied.

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.

The denial was based on Mr. Cleveland's failure to disclose that his gaming license had been previously suspended by the Winnebago Tribe of Nebraska.

2) The agent received documents from the YNGC and reviewed Commission licensing files. That review revealed the following:

- In his application with the YNGC Commission, Mr. Cleveland was asked if he had ever had a (gaming) license suspended or revoked. Mr. Cleveland answered "no," admitted to some traffic violation history, and attached his Department of Motor Vehicles (DMV) report to his application.
- On October 22, 2009, YNGC Executive Director Kristen Lumley sent Mr. Cleveland a letter stating that during their investigation of his application, YNGC discovered that the Winnebago Gaming Commission took action to suspend his tribal gaming license due to failure to comply with a Gaming Commission Rule. The letter requested that Mr. Cleveland provide documentation from the Winnebago Gaming Commission regarding the suspension and gave him the opportunity to provide a personal written explanation regarding the issue.
- On October 27, 2009, Mr. Cleveland responded in writing to Ms. Lumley's correspondence. He admitted that the Winnebago Tribe attempted to suspend his gaming license, but that he resigned before any suspension was issued. Mr. Cleveland stated that it was his understanding that his license "simply expired." Mr. Cleveland wrote further that "as a final statement, there was no malice intended to mislead anyone, this was ugly Tribal Politics, and I was providing information that was passed on to me through the Tribal Chairman."
- On November 24, 2009, Ms. Lumley signed a Petition to Deny Mr. Cleveland's application. Section II of the Petition stated "it is determined that he [Mr. Cleveland] failed and refused to comply with the provisions of . . . Background Investigation Regulation(s) by failing to disclose that his gaming license was suspended by the Winnebago Gaming Commission for having ex-parte communication with the Winnebago Tribal Council." The Petition noted that Mr. Cleveland's Winnebago suspension occurred on February 2, 2009, and his resignation letter is dated February 5, 2009. In the YNGC application, Mr. Cleveland was also asked if "any warnings, conditions, or reprimands were ever issued" relative to his gaming license. He also answered "no" to this question. Section III of the Petition gave Mr. Cleveland the opportunity to file a Petition for Reconsideration with the YNGC within 15 days after receiving the Petition to Deny. The Petition was sent to Mr. Cleveland with a cover letter on November 24, 2009.
- On November 25, 2009, the YNGC received an undated letter from Mr. Cleveland, reiterating his explanation of events from his October 27, 2009, letter. On page nine of his letter, Mr. Cleveland takes exception to the Yakama Gaming Commission implying that he lacks character, and failed and refused to comply with regulations.
- On December 9, 2009, the YNGC voted 4-0 to deny Mr. Cleveland's application. On

December 15, 2009, Mr. Cleveland was sent a letter via certified mail from Ms. Lumley notifying him of the YNGC vote to uphold the denial of his gaming license application.

- In his application with the Gambling Commission, Mr. Cleveland was asked the following question:

Have you ever (as a juvenile or adult):

- 1) Forfeited bail or paid a fine over \$25
- 2) Been arrested or charged with a crime?
- 3) Been convicted or jailed?
- 4) Been placed on probation or community service?
- 5) Are you the subject of any warrants failure to appear charges?
- 6) Had a gambling license suspended or revoked?

- The application also set out the following instructions: “You must answer ‘yes’ if any of the above has occurred, even if charges were dismissed, deferred, or changed. Explain each charge fully below and attach additional sheets as needed. False or incomplete information may result in denial/revocation/administrative closure of your application . . .”

- Mr. Cleveland marked the “yes” box indicating he had criminal history and wrote “DMV report atch [sic].” He did not disclose that his gaming license had been suspended by the Winnebago Gaming Commission. He signed his application under penalty of perjury as being true and correct. The application advises the applicant that the State Gaming Agency may revoke, suspend or deny a state certification for any reason(s) it deems to be in the public interest under the provisions of Chapter 9.46 or the Revised Code of Washington.

The certified employee violated RCW 9.46.153. Therefore, under RCW 9.46.075(1), (3), and (8), and WAC 230-03-085(1), and (8), grounds exist to revoke Silas Cleveland’s certification.

VIOLATIONS:

RCW 9.46.075(1), (3), (7), and (8) Suspending or revoking 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:

(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) Has obtained a license or permit by fraud, misrepresentation, concealment, or through inadvertence or mistake;

(7) Makes a misrepresentation of, or fails to disclose, a material fact to the Commission.

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

WAC 230-03-085(1), and (8) Suspending or revoking 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:

(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 gaming as demonstrated through prior activities, reputation or habits.

RCW 9.46.153(1)

(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.

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III.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, and the Administrative Procedure Act, WAC Title 230.

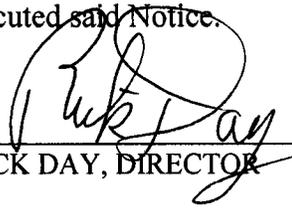
The certified employee will have the opportunity to have a hearing on the alleged violations.

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 this document will result in the entry of a default order REVOKING your Class III Employee certification.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

Rick Day, being duly sworn on oath, says: That he has read this Notice of Administrative Charges and Opportunity for An Adjudicative Proceeding for Silas Cleveland 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.

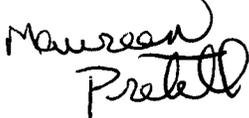


RICK DAY, DIRECTOR

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

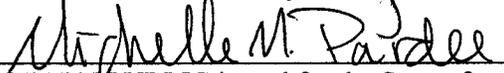
I hereby certify that I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy thereof, properly addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 1st day of February, 2010



Communications and Legal Department
Washington State Gambling Commission

SUBSCRIBED AND SWORN TO before me this 29 day of January, 2010.



NOTARY PUBLIC in and for the State of

Washington residing at Lacey

My commission expires on June 16, 2013

