

STATE OF WASHINGTON  
GAMBLING COMMISSION

In the Matter of the Revocation of the Class III )  
Certification to Conduct Gambling Activities of: )  
Carl Flores )  
Olympia, Washington, )  
Class III Employee. )

NO. CR 2010-00397

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

I.

The Washington State Gambling Commission issued Carl Flores the following Class III Employee certification: <sup>1</sup>

- 69-12192, Authorizing Class III Employee Activity, formerly for the Nooksack Tribe.

The certification expires on September 27, 2010, and was issued subject to the certified employee's compliance with state gambling laws, rules, and the Nooksack Tribal-State Compact.

II.

Rick Day, Director of the Washington State Gambling Commission, charges the certified employee with the following violations of the Washington State Gambling Act, 9.46 RCW, WAC Title 230, and Section 5 of the Nooksack Tribal-State Compact:

**SUMMARY:**

A Class III Employee, Carl Flores, admitted taking casino chips, trading the chips for Oxycontin, and smoking Oxycontin in the employee restroom during breaks. He was recorded on surveillance video taking the chips and making his admissions.

**FACTS:**

On May 24, 2010, the Class III Employee was served with Findings of Fact, Conclusions of Law and Order of Summary Suspension, which included the following allegations:

1. On March 30, 2010, Marc Epps, Manager of the Nooksack Tribal Gaming Commission provided a Commission Special Agent (agent) with a Tribal Gaming Agency (TGA) incident report regarding a dealer who had stolen casino chips.

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<sup>1</sup> 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. According to the report, on March 4, 2010, TGA staff was contacted by Nooksack River Casino (NRC) Security Officer Tess Jonasson, who informed TGA that she observed suspicious behavior by Mr. Flores when, on his break, he went over to the Market Centre across the parking lot and entered the restroom for approximately one minute, then reentered the NRC and entered the restroom in the casino. TGA staff agreed that this was unusual, and directed surveillance staff to observe Mr. Flores while he was dealing.
3. NRC surveillance video reflects the following:
  - March 5, 2010, at 15:14 hrs, Mr. Flores takes four green \$25 chips totaling \$100, and puts them in his pants pocket. He does this by hiding the chips in the palm of his hand, adjusting the waistband of his pants, and quickly putting the chips in his front pants pocket.
  - On March 6, 2010, at 15:42 hrs, Mr. Flores takes four green \$25 chips totaling \$100, and puts them in his pants pocket. He does this by using the same process observed on March 5<sup>th</sup>. At 22:06 hrs, he takes four more green \$25 chips totaling \$100 and puts them in his pants pocket.
  - On March 7, 2010, at 15:43 hrs, Mr. Flores takes five green \$25 chips totaling \$125, and puts them in his pants pocket, again using the same process.
4. In three days, Mr. Flores took an estimated \$425 in chips from NRC. A Commission agent and Gaming Director, Todd Finco, reviewed the surveillance. Both determined the amount of chips taken by Mr. Flores reflected in the video at \$425 in value.
5. On March 12, 2010, Mr. Epp interviewed Mr. Flores regarding the theft of gaming chips. The interview was audio and video recorded. During the interview, Mr. Flores admitted to taking approximately \$4,000 from NRC over a four or five month period. Mr. Flores explained that he was trading the chips for Oxycontin pills and smoking Oxycontin in the employee restroom during breaks. Mr. Flores admitted that he would drop off the chips and pick up the Oxycontin in the restroom at Market Centre.
6. At the interview, Mr. Flores was issued Nooksack Gaming Commission license revocation paperwork, and barring paperwork. Nooksack tribal police then took Mr. Flores into custody. Incident to his arrest he was found to possess half of an Oxycontin pill, and drug paraphernalia.
7. On March 9, 2010, Mr. Flores gaming license was revoked by the Nooksack Gaming Commission.
8. After service of the Summary Suspension, staff became aware of the following facts, and obtained and reviewed supporting documentation from the Nooksack Tribal Court:

- On March 15, 2010, Mr. Flores was charged with the crime of Theft in the First Degree in the Nooksack Indian Tribal Court arising from his behavior at the Nooksack Casino from January 1, 2010 through March 12, 2010. He was also charged with Possession of a Controlled Substance, and Possession of Drug Paraphernalia occurring on March 12, 2010.
- On April 21, 2010, in a written statement to the Nooksack Tribal Court, Mr. Flores pled guilty to Theft in the First Degree, and Possession of a Controlled Substance. The drug paraphernalia charge was dismissed. On that day, Mr. Flores was found guilty of both charges, and sentenced to 12 months of probation as well as 180 days of jail (suspended sentence). He was also directed to obtain a substance abuse evaluation and to follow-up with its recommendations, to pay restitution to the casino in the amount of \$4,000, to stay away from all Nooksack Tribally owned businesses, and to have otherwise lawful behavior.

Therefore, under the Nooksack Tribal-State Compact 5(d), RCW 9.46.075(1), (4), (8), and (10), and WAC 230-03-085(1), (5), and (8), grounds exist to revoke Carl Flores's Class III Employee certification.

#### **VIOLATIONS:**

1) **The Nooksack Tribal-State Compact, Sections 5(d)(i), (iv), (vi) (viii) and (x)** provide that the State Gaming Agency<sup>2</sup> may revoke or suspend 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 if a holder of a certification:

- (i) Has violated, failed or refused to comply with the provision, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the state Gaming Agency pursuant thereto, or any provision of a Tribal/State Compact, or when a violation of any provision of chapter 9.46 RCW, or any State Gaming Agency rule, or any provision of a Tribal/State Compact has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;
- (iv) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to any Tribal, State, or U. S. 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 the Tribe, 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;
- (vi) Fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this Section.

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<sup>2</sup> Washington State Gambling Commission, as referred to in the Nooksack Tribal-State Compact, Section II (U).

- (viii) Has had a Tribal license revoked or denied during the preceding twelve months.
- (x) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal laws of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain.

2) **RCW 9.46.075(1)** provides the Commission may revoke any license or permit for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein any person with any interest therein: 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.

3) **WAC 230-03-085(1) and (8)** provide that the Commission may revoke a license or permit when the licensee or permittee poses a threat to the effective regulation of gaming or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gaming activities as demonstrated by prior activities.

4) **RCW 9.46.075(4)** provides that 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:

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

5) **WAC 230-03-085(5)** provide that the Commission may revoke a license or permit when the licensee or permit holder is serving a period of probation or community supervision imposed as a sentence for any juvenile, misdemeanor, or felony criminal offense, whether or not the offense is covered under RCW 9.46.075(4);

6) **RCW 9.46.190(3)** provides any person or association or organization operating any gambling activity who or which, directly or indirectly, shall in the course of such operation: Engage in any act, practice or course of operation as would operate as a fraud or deceit upon any person shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021.

7) **RCW 9.46.075(10)** 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: Has pursued or is pursuing economic gain in an occupational

manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain;

8) **RCW 9.46.075(8)** provides the Commission may revoke any license or permit when a licensee or permittee fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter. RCW 9.46.153(1) provides that it shall be the affirmative responsibility of each licensee and permittee to establish by clear and convincing evidence the necessary qualifications to hold a license or permit.

9) **RCW 9.46.153(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.

On March 5 – 7, 2010, Class III Employee Carl Flores took casino chips and was recorded on surveillance video doing so. Mr. Flores took approximately \$4,000 from NRC over a four or five month period, in violation of RCW 9.46.190(3). Mr. Flores traded the chips for Oxycontin pills and smoked Oxycontin in the employee restroom during breaks.

On March 9, 2010, Mr. Flores' gaming license was revoked by the Nooksack Gaming Commission in violation of The Nooksack Tribal-State Compact, Sections 5(d)(viii).

On April 21, 2010, Mr. Flores pled guilty to Theft in the First Degree, a crime similar to larceny, in violation of RCW 9.46.075(4). He also pled guilty to Possession of a Controlled Substance. He was sentenced to 12 months of probation, in violation of WAC 230-03-085(5).

Mr. Flores poses a threat to the effective regulation of gaming as demonstrated by his conduct, and he has failed to prove that he is qualified to hold a license or permit, in violation of RCW 9.46.153(1). Grounds, therefore exist to revoke Carl Flores' certification based on section 5(d) of the Nooksack Tribal State Compact and WAC 230-03-085(1), (5), and (8), and RCW 9.46.075(1), (4), (8), and (10).

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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.

Carl Flores 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 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, 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.

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 25 day of June, 2010

*Maureen Prebble*  
Communications and Legal Department  
Washington State Gambling Commission

*Julie L. D. signing on behalf of*  
RICK DAY, DIRECTOR

SUBSCRIBED AND SWORN TO before me this 25 day of June, 2010.

*Michelle M. Pardee*  
NOTARY PUBLIC in and for the State of

Washington residing at LACEY

My commission expires on June 16, 2013

