

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the Class III)
Certification to Conduct Gambling Activities of:) NO. CR 2012-00620
)
John T. Cavitt) **FINDINGS, CONCLUSIONS,**
Burlington, Washington,) **DECISION, AND FINAL**
) **ORDER IN DEFAULT**
Class III Employee.)

THE MATTER of the revocation of the certification to conduct gambling activities of John T. Cavitt having come before the Commission on October 11, 2012, the Commission makes the following Findings of Fact, Conclusions of Law, and issues the following Decision and Order:

FINDINGS OF FACT

I.

The Washington State Gambling Commission issued John T. Cavitt certification number 69-10674, authorizing Class III Employee activity at Northern Lights Casino. The certification will expire on February 28, 2013, and was issued subject to the licensee's compliance with Swinomish Tribal/State Compact, and state gambling laws and rules.

II.

On August 2, 2012, Director Rick Day issued administrative charges to John T. Cavitt, by certified and regular mail. Mr. Cavitt did not respond to the charges and waived his right to a hearing and pursuant to RCW 34.05.440; this final order may be entered in default.

III.

1) At a routine State Gaming Agency/Tribal Gaming Agency meeting on April 18, 2012, the Tulalip Tribal Gaming Agency (TTGA) notified the State Gaming Agency (SGA) that a Class III employee, John Cavitt, had revocations from TTGA in 2010 and Swinomish Tribal Gaming Agency (STGA) in 2012. A Washington State Gambling Commission Special Agent (agent) subsequently received Mr. Cavitt's file to investigate whether he continues to qualify for certification. The agent reviewed Mr. Cavitt's licensing file and requested the revocation documents. TTGA provided SGA with a copy of their Violation Report, Surveillance Report, Witness Statements, a statement from Mr. Cavitt, Notice of Summary License Suspension Pending Revocation, Order on Initial Review Hearing of Summary Suspension Pending Revocation, and Final Notice of Revocation. On March 27, 2012, STGA provided SGA with a copy of their Findings of Background Investigation for the Swinomish license and a copy of a letter to Mr. Cavitt notifying him his license had been revoked.

- 2) Mr. Cavitt did not disclose to STGA his revocations with TTGA. On March 19, 2012, the National Indian Gaming Commission¹ notified STGA of Mr. Cavitt's 2010 TTGA revocation, which prompted the STGA's revocation of Mr. Cavitt's 2012 license.
- 3) Mr. Cavitt first applied for and was granted certification to work at the Upper Skagit Casino in 2000. He maintained his certification on and off since then and has also worked at the Swinomish Casino, Stillaguamish Casino, and Tulalip Casino.
- 4) On February 9, 2010, a Tulalip Violation Report was opened after TTGA was informed of an employee theft. The report states that a Slot Attendant (Attendant) was in the process of paying out a jackpot of \$1,380 and received \$1,300 in \$100 bills and \$80 in \$20 bills at the Cage for payout. As the Attendant walked to the customer to pay the jackpot, a \$20 bill dropped on the ground. Mr. Cavitt picked up the \$20 bill and proceeded to the Employee Services window of the Cage to turn the bill in. However, instead of turning the \$20 bill he picked up, Mr. Cavitt returned a \$1 bill.
- 5) Mr. Cavitt was interviewed about the incident. During the interview, Mr. Cavitt said that he picked up some money on the floor and turned it in, but forgot to call Surveillance to advise them. Mr. Cavitt knew what the "found money" policy was. When Mr. Cavitt was advised there was surveillance showing that he turned in a \$1 bill and not the \$20 he picked up off the floor, he stated "he messed up and can't sit there and lie." He said he has financial problems due to the IRS garnishing his wages but there was no excuse for what he did. When Mr. Cavitt was asked if he had done this type of thing before, he replied he hadn't. Mr. Cavitt completed a written statement admitting to the theft.
- 6) On February 9, 2010, the Attendant who received the Jackpot payout money completed a statement. The Attendant said they got \$1,380.40 from the cage and dropped some by accident. Another employee also provided a statement stating that while doing a Jackpot payout, they noticed the winner was shorted \$20. They contacted the Cage and confirmed they were given the correct amount, but \$20 was dropped on the way to paying the winner.
- 7) Mr. Cavitt also provided a statement about the incident. He said, "On 2/29/10 while patrolling the Casino floor I was walking past the Cash Cage and saw a \$20 bill on the floor. Instead of calling Control over the radio and informing them that I was picking up \$20 and taking it to the Cage, I picked up the \$20 placed it in my pocket and replaced it with a \$1 bill which I turned into the Cage. I realize what I did was wrong and that theres [sic] no excuse for it. I will return the \$20 I took, and whatever consequence I must face, I accept."
- 8) Immediately following the incident, Mr. Cavitt was issued a Notice of Summary Suspension Pending Revocation. The document states that Mr. Cavitt's license was summarily suspended based on the incident.

¹ The National Indian Gaming Commission is a federal agency that regulates gaming activities on Indian lands for the purpose of shielding Indian tribes from organized crime and other corrupting influences; to ensure that Indian tribes are the primary beneficiaries of gaming revenue; and to assure that gaming is conducted fairly and honestly by both operators and players.

9) On February 16, 2010, an Order on Initial Review Hearing of Summary Suspension Pending Revocation was filed in the Tulalip Gaming Court. The document states that the Court upheld the summary suspension of Mr. Cavitt's license pending a full appeal hearing. On February 24, 2010, a Final Notice of Revocation was issued.

10) The agent reviewed the application received by SGA on February 29, 2012. Mr. Cavitt marked the "no" box, indicating that he did not have any criminal history or have a gambling license revoked.

11) The agent also reviewed the documentation that STGA submitted for their revocation. On March 27, 2012, Ron Williams, Executive Director, STGA, signed off on a Findings of Background Investigation for the Swinomish license based on an investigation into Mr. Cavitt's suitability to be licensed. The documents state that STGA found Mr. Cavitt's license had previously been revoked by TTGA and that Mr. Cavitt neglected to disclose this material fact on his tribal license application. The recommendation was that Mr. Cavitt's license be revoked.

12) On March 28, 2012, Mr. Williams sent Mr. Cavitt a letter explaining that his license had been revoked. The letter states that STGA was notified by the National Indian Gaming Commission about the results of Mr. Cavitt's background investigation. During a follow-up investigation, STGA found that he failed to disclose information regarding a previous action taken against his gaming license that resulted in the revocation of his license.

VIOLATIONS:

Swinomish Tribal/State Compact:

V.C. Grounds for Revocation, Suspension, or Denial of State Certification

The State Gaming Agency shall grant, deny, revoke or suspend a State certification based on the standards established in RCW 9.46.075. In general, certification may be revoked if the applicant:

V.C. (1) Is determined to be a person whose prior activities, criminal record, if any, or reputation, habits or 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 has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by any provision of a Tribal/State Compact.

V.C. (2) Has failed to provide any information reasonably required to investigate the application for state certification or to reveal any fact material to such application, or has furnished any information which is untrue or misleading in connection with such application.

V.C. (3) Has had a tribal gaming license revoked or denied during the twelve (12) months prior to the date of receipt of the application; is currently on probation; or has demonstrated a willful disregard for compliance with gaming regulatory authority in any jurisdiction, including offenses that could subject the individual or entity to suspension, revocation or forfeiture of a gaming license.

V.C. (4) The State Gaming Agency may consider any prior criminal conduct and/or current probationary status of an applicant or holder of certification, and the provisions of RCW 9.95.240 and of Chapter 9.96A RCW shall not apply to such cases.

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.

(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 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.

(7) Fails to provide us with any information required under commission rules within the time required, or, if the rule establishes no time limit, within thirty days after receiving a written request from us; or

(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; (b) Criminal record; and (c) Reputation.

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 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.

Mr. Cavitt has failed to establish clearly and convincingly that he is qualified for certification, as required by RCW 9.46.153(1). As a result, there are grounds to revoke John T. Cavitt's certification based on the Swinomish Tribal/State Compact, RCW 9.46.075(1), (3), (7), and (8), and WAC 230-03-085(1), (7), and (8).

IV.

CONCLUSIONS OF LAW

The circumstances specified in the Findings of Facts in section III above constitute grounds for the revocation of John T. Cavitt's certification to conduct gambling activities under the authority of Swinomish Tribal/State Compact, RCW 9.46.075, and WAC 230-03-085.

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DECISION AND ORDER

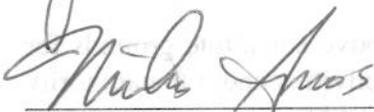
The Washington State Gambling Commission HEREBY ORDERS: John T. Cavitt's Class III Employee certification to conduct gambling activities is REVOKED.

DATED this ^{11th}~~12th~~ day of October, 2012.

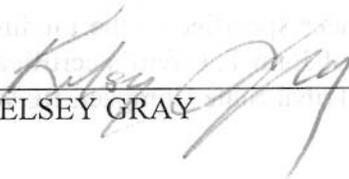


JOHN ELLIS, Chair

MICHAEL REICHERT



MIKE AMOS, Vice Chair



KELSEY GRAY



MARGARITA PRENTICE

PRESENTED BY:



Amy B. Hunter, WSBA# 23773
Administrator, Communications and Legal Division
Washington State Gambling Commission

NOTICE: RCW 34.05.440(3) provides that within seven (7) days after service of a default order the party against whom it was entered may file a written motion requesting that the order be vacated and stating the grounds relied upon.

WAC 230-17-040(3) requires that motions be served on the parties listed below:

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