

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the)
Certification to Conduct Gambling Activities of:)
Austin L. Moses)
Auburn, Washington)
Class III Employee.)
_____)

NO. CR 2012-01516

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

I.

The Washington State Gambling Commission issued Austin L. Moses the following certification:¹

Number 69-11545, authorizing Class III Employee activity with the Muckleshoot Casino.

The license expires on October 11, 2013, and was issued subject to Austin L. Moses' compliance with state gambling laws and rules.

II.

Rick Day, Director of the Washington State Gambling Commission, charges Austin L. Moses with the following violations of the Muckleshoot Tribal/State Compact, Washington State Gambling Act, 9.46 RCW, and WAC Title 230:

SUMMARY:

Austin L. Moses has an extensive administrative history and continues to show willful disregard for court orders. He has demonstrated this through continually not paying his court-ordered fines and fees, resulting in them being assigned to collections. At the time of his renewal in October 2012, it was determined that Mr. Moses has new cases in collections, and he has an active warrant for his arrest.

FACTS:

1) On October 16, 2012, a Washington State Gambling Commission Special Agent (agent) was reassigned to Austin L. Moses' file to determine whether he qualifies to maintain his certification to work at the Muckleshoot Casino. His file was brought to the agent's attention during a routine annual criminal history check.

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) As part of the investigation, the agent reviewed Mr. Moses' gambling license file. He first applied for and was granted certification in 2000 to work at Yakama's Legends Casino. He has maintained his certification on and off since then. In 2006, he began working at the Muckleshoot Casino. In 2010 and again in 2011, Mr. Moses was the subject of administrative charges due to his failure to comply with court orders. The following is a summary of previous actions against him:

- On December 1, 2010, the agent opened case 2010-01385. At the time, Mr. Moses had \$3,869.32 in court-ordered fines and fees that had been sent to collections, and he had four Failures to Appear on his record.
- On April 19, 2011, an administrative hearing was held in the matter of the revocation of Mr. Moses' certification.
- On May 3, 2011, Administrative Law Judge Douglas H. Haake signed the Initial Order to revoke Mr. Moses' certification based on the following analysis:

"Mr. Moses has a pattern of ignoring court ordered financial obligations and failing to appear for hearings. Mr. Moses' pattern of behavior poses a threat to the effective regulation of gambling and a present threat to the public in his position as a gambling licensee; it is the public interest that his gambling license be revoked. . . Mr. Moses has not affirmatively established by clear and convincing evidence that he is qualified to hold a gambling certification in accordance with the laws and regulations governing gambling in the State of Washington and accordingly. . .the gambling license of Austin L. Moses shall be revoked."²

3) On July 14, 2011, after filing a Petition for Review of the Initial Order, Mr. Moses' case was reviewed by the Commissioners. Mr. Moses and the Commission entered into a Stipulation and Final Order on Petition for Review. The Stipulation stated that since the administrative hearing, Mr. Moses had paid approximately \$1,100 towards his court-ordered fines and fees and agreed to enter into a payment program until all outstanding fines and fees were paid in full. The Stipulation also stated that Moses' "revocation is hereby deferred until July 14, 2012" with the following conditions:

- Mr. Moses shall enter into a payment plan with the courts and timely make all of the payments required on all of the outstanding court fees and costs that gave rise to the statement of charges;
- Mr. Moses shall violate no gambling related statute or regulation during the period of the deferred licensing revocation; and
- Mr. Moses' certification is suspended for seven days.

4) The Stipulation concluded with "failure to timely comply with any of the above conditions of deferral may result in this matter brought back before the Commission for further proceedings,

² The judge used the terms "license" and "licensee" throughout his order instead of "certification" and "certified employee."

possible reconsideration of the deferral of revocation granted herein, and the Commission's issuance of an amended Final Order On Petition For Review that fully revokes the Petitioner's Class III certificate to conduct gambling activities in the State of Washington."

5) On November 30, 2011, the agent interviewed Mr. Moses at the Muckleshoot Casino to ensure that he received a copy of the Stipulation and understood the ramifications for not complying with it. During the interview, the agent was able to determine that Mr. Moses had not made any additional payments toward his court-ordered fines and fees, nor had he entered into any type of payment plan with the courts. Since Mr. Moses was in violation of the Stipulation Order, the agent completed a case report.

6) On March 8, 2012, Mr. Moses again appeared before the Commissioners. An Assistant Attorney General provided argument to the Commission to revoke Mr. Moses' certification based on his violation of the Stipulation and Order. The Commissioners voted to not revoke Mr. Moses' certification and directed staff to report back to them on the progress of Mr. Moses' payments by May 15, 2012. Commissioner Rojecki told Mr. Moses that the Commission takes this issue very seriously. Commissioner Rojecki hoped "Mr. Moses has most, if not all, of this debt paid off by May 15, 2012" and said that the Commissioners also "expect to see some change from Mr. Moses' behavior." When Commissioner Rojecki asked Mr. Moses if he understood the repercussions of having his license revoked, Mr. Moses answered that he did.³

7) On June 12, 2012, the agent prepared the supplemental report to serve as an update on the status of Mr. Moses' fines and fees that were in collections. The agent was able to confirm that as of June 12, 2012, Mr. Moses had paid all of his outstanding court-ordered fines and fees that were in collections; however, Mr. Moses owed \$287 that had not been sent to collections.

8) On July 12, 2012, Mr. Moses' update was presented to the Commissioners.⁴ It was reported that a payment plan was successful because Mr. Moses had paid off all of his court debts that were in collections and that staff would not be pursuing his revocation.

9) When the agent reviewed Mr. Moses' annual criminal history check, she noted that Mr. Moses has the following new items on his record: one warrant for Driving Under the Influence (a gross misdemeanor), three new cases, four new Failures to Appear, and \$1,012 in collections. Additionally, he has \$1,152 selected for, but not yet referred to, collections.⁵ The agent determined Mr. Moses does not qualify for certification based on his willful disregard for court orders.

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³ Information summarized from the March 8, 2012, Commission meeting minutes.

⁴ The May 15, 2012 due date occurred after the May Commission meeting. As no Commission meeting was held in June, staff reported back during the July Commission meeting.

⁵ According to the Judicial Information System money screen.

VIOLATIONS:

Section V.C. of the Muckleshoot Tribe/State Compact

The State Gaming Agency⁶ 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.

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.

(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, 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.

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

(6) Is the subject of an outstanding gross misdemeanor or felony arrest warrant.

(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.

⁶ Washington State Gambling Commission, as referred to in the Muckleshoot Tribal/State Compact, Section II (U).

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.

Austin L. Moses poses a threat to the effective regulation of gambling demonstrated through his willful disregard for repeated failure to comply with court orders. Mr. Moses has failed to show he is qualified for certification, in violation of 9.46.153. Therefore, under the Muckleshoot Tribal/State Compact, RCW 9.46.075 (1) and (8) and WAC 230-03-085 (1), (3), (6), and (8), grounds exist to revoke Austin L. Moses' certification.

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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)

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.

Rick Day

RICK DAY, DIRECTOR

SUBSCRIBED AND SWORN TO before me
this 7 day of December, 2012.

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 10 day of December, 2012

Maureen Pretell