

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the)
Certification to Conduct Gambling)
Activities of:)
)
Patrick W. Kincaid)
Maple Valley, Washington,)
)
Class III Employee.)
_____)

NO. CR 2013-00500

**NOTICE OF ADMINISTRATIVE
CHARGES, AND OPPORTUNITY FOR
AN ADMINISTRATIVE HEARING**

I.

The Washington State Gambling Commission issued Patrick W. Kincaid certification¹ number 69-34389, authorizing Class III Employee activity.

The Commission issued this certification, which expires on August 28, 2013, subject to the certified employee's compliance with state gambling laws and Commission rules.

II.

David Trujillo, Interim Director of the Washington State Gambling Commission, charges the Class III employee with the following violations of the Snoqualmie Tribal/State Compact, Washington State Gambling Act, 9.46 RCW, and WAC Title 230.

SUMMARY:

On March 6, 2013, the Snoqualmie Gaming Commission revoked Patrick W. Kincaid's license because he admitted to committing a theft that resulted in a loss to the casino of \$200.

FACTS:

1) A Washington State Gambling Commission Special Agent (agent) was assigned to Patrick W. Kincaid's file to investigate whether he continues to qualify for certification after having his tribal license revoked. The Snoqualmie Gaming Commission (SGC) notified the Washington State Gambling Commission (SGA) of the revocation and provided copies of their Incident Report, a voluntary statement from Mr. Kincaid, surveillance DVD, and letters sent to Mr. Kincaid notifying him of his license status. Even though Mr. Kincaid's license was revoked by the SGC, his state certification remains active. As long as his state certification is active, he could transfer to a different tribal casino or to a house banked card room.

¹Class 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.

2) The agent reviewed the licensing file and found Mr. Kincaid has only been certified since August 2012.

3) According to the Incident Report that the SGC provided, on December 23, 2012, the SGC received a call regarding Mr. Kincaid stealing \$200 cash from his till at cage window 6. A SGC Agent reviewed the surveillance coverage and saw the following:

- 06:25- Mr. Kincaid cashed a customer out and gave them \$1,400. As he was counting out \$1,400 in \$100 bills, he pulled two extra bills out and then put the bills in the back of his top drawer.
- 07:29- Mr. Kincaid reached into the back of his top drawer and crumpled up the two \$100 bills in his right fist. Mr. Kincaid then cashed another guest and kept his right hand folded over the bills. Mr. Kincaid then cleared his left hand, but didn't clear his right hand where the bills were.
- 07:33- Mr. Kincaid locked up his drawer and went on break.
- 07:34- Mr. Kincaid walked onto the casino floor and put his right fist into his right pants pocket.

4) After SGC reviewed the surveillance footage, they decided to interview Mr. Kincaid about the incident.

5) On January 1, 2013, Mr. Kincaid was escorted to the interview room and was advised that the room was being video and audio recorded. When asked why he thought he was there, Mr. Kincaid said maybe because of a badge issue or because he had a \$250 variance on December 23, 2012. When asked about the variance, Mr. Kincaid explained that he was paying a customer \$1,400 and thinks that two bills got stuck together because they were "sticky." SGC confronted Mr. Kincaid and told them they had surveillance that showed him stealing cash from the drawer at window six. At first, Mr. Kincaid denied it, and then admitted that he stole two \$100 bills. When asked why he stole the money, Mr. Kincaid said that another employee had threatened to kill him and his family if he didn't steal for him. Mr. Kincaid said after he stole the money, he met with the employee and gave him the money. Mr. Kincaid said that his debt had been paid and it was a onetime thing. Mr. Kincaid described the employee and gave SGC a first name.

6) Mr. Kincaid agreed to fill out a voluntary statement. In his statement, he wrote about the other employee threatening to kill him and his family if he didn't steal for him. Mr. Kincaid wrote: "so I panicked and took the money out of my till that I was working on." Mr. Kincaid also wrote: "I am truly sorry and that I really didn't want to take the money but I was scared for my life and my families [sic] so I took two one hundred dollar bills crumpled them up in my hand and walked out." The statement is signed by Mr. Kincaid and dated January 1, 2013.

7) As part of their investigation, SGC followed up on the threat to Mr. Kincaid. They interviewed an employee who met Mr. Kincaid's physical and name description on January 6,

2013. At the conclusion of the interview, the SGC Agents agreed that the employee had nothing to do with Kincaid's theft.

8) On January 16, 2013, SGC sent Mr. Kincaid a letter as notification that they were seeking to revoke his gaming license.

9) On March 6, 2013, SGC sent Mr. Kincaid another letter regarding the status of his license. The letter states: "After careful consideration of the information presented concerning your license revocation, the Snoqualmie Gaming Commission had made the decision to revoke your Snoqualmie Tribal Gaming License.

Mr. Kincaid has failed to establish clearly and convincingly that he is qualified for licensure, as required by RCW 9.46.153(1). Mr. Kincaid admitted to committing a theft that resulted in a loss to the Snoqualmie casino of \$200. As a result, there are grounds to revoke Patrick W. Kincaid's certification based on the Snoqualmie Tribal/State Compact, RCW 9.46.075(1) and (10), and RCW 9.46.170, and WAC 230-03-085(1) and (8).

VIOLATIONS:

Snoqualmie Tribal/State Compact

Section V.C. of the Tribal-State Compact states the SGA may revoke, suspend or deny a State certification for any reason it deems to be in the public interest. These reasons shall include when the holder of certification:

V.C.1. Is determined to be a person who because of 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 used in the conduct of the gaming activities permitted pursuant to this compact.

V.C.2. 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.4. has demonstrated a willful disregard or failed to comply with the requirements of any gaming regulatory authority in any jurisdiction, including offenses that could subject the individual or entity to suspension, revocation or forfeiture of a gaming license.

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.

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

(10) 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.

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.

(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; and
- (b) Criminal record;
- (c) Reputation; or
- (d) Habits.

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 pending 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.

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 Snoqualmie Tribal/State Compact.

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)

David Trujillo, 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 Interim Director of the Washington State Gambling Commission, and in that capacity has executed said Notice.

David Trujillo
DAVID TRUJILLO, INTERIM DIRECTOR

SUBSCRIBED AND SWORN TO before me
this 1 day of April, 2013.

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 2 day of April, 2013
Maureen Pretell