

WASHINGTON STATE
OFFICE OF ADMINISTRATIVE HEARINGS

In The Matter Of:

Docket No. 07-2016-GMB-00010

SCOTT ROBINSON,
Auburn, Washington
License No. 69-37575

Licensee

INITIAL ORDER

Agency: Gambling Commission
Program: Licensing
Agency No. CR 2016-00440

1. ISSUES

- 1.1. Issue 1: Did Scott Robinson ("Mr. Robinson") fail to report the Snoqualmie Gaming Commission's administrative action and its outcome to the Commission within 30 days of filing the action or final outcome as required by WAC 230-06-090?
- 1.2. Issue 2: Did Mr. Robinson's assault on a casino guest demonstrate his knowing and willful disregard for complying with ordinances, statutes, administrative rules, or court orders as required by RCW 9.46.075(1) and WAC 230-03-085(3)?
- 1.3. Issue 3: Did Mr. Robinson's actions establish that he is a threat to the effective regulation of gambling pursuant to WAC 230-03-085(8)?
- 1.4. Issue 4: Did Mr. Robinson fail to prove, by clear and convincing evidence, that he is qualified for licensure in violation of RCW 9.46.075(8) and RCW 9.46.153(1)?
- 1.5. Issue 5: Should the Commission's revocation of Mr. Robinson's Class III certification pursuant to RCW 9.46.075(1), (7), and (8); WAC 230-03-085(1), (3), (7), and (8), as well as Section V C(1), (2), and (4) of the Snoqualmie Tribe-State Compact, be upheld, modified, or set aside?

2. ORDER SUMMARY

- 2.1. Order No. 1: Yes.
- 2.2. Order No. 2: Yes.
- 2.3. Order No. 3: Yes.
- 2.4. Order No. 4: Yes.

2.5. Order No. 5: Upheld.

3. HEARING

3.1. Hearing Date: January 11, 2016.

3.2. Administrative Law Judge: John M. Gray. Paula Kurtz-Kreshel, OAH Extern, observed but did not participate.

3.3. Appellant: Scott A. Robinson ("Mr. Robinson").

3.3.1. Representative: Scott A. Robinson.

3.3.2. Witnesses:

3.3.2.1. Scott A. Robinson.

3.4. Agency: Washington State Gambling Commission ("Commission").

3.4.1. Representative: Aryna Anderson, Assistant Attorney General. Haley Mills and Kellen Wright were present, but did not testify.

3.4.2. Witnesses:

3.4.2.1. Jolena Glazier, Director of Surveillance, Snoqualmie Casino.

3.4.2.2. Ken Hooper, Security Manager, Snoqualmie Casino. Mr. Hooper testified by telephone.

3.4.2.3. Brad Goodson, patron at Snoqualmie Casino.

3.4.2.4. Vander McInnis, Snoqualmie Gambling Commission Manger.

3.4.2.5. Mike Lopez, Special Agent, Commission.

3.5. Exhibits: The Commission's Exhibits 1 through 17 and Mr. Robinson's Exhibit A were admitted.

3.6. PHCO: This hearing was governed by the Corrected Prehearing Conference Order dated September 29, 2016.

3.7. Other: All witnesses were sworn before testifying.

4. FINDINGS OF FACT

The ALJ finds the following facts by a preponderance of the evidence:

Jurisdiction

- 4.1. The Commission issued the Notice of Administrative Charges on May 31, 2016. The Commission mailed the Notice of Administrative Charges to Mr. Robinson by both regular and certified United States mail. The mailing address was 32 5th St. NW, Apartment C, Auburn, WA 98001. Mr. Robinson filed his appeal with the Commission. He dated the appeal June 9, 2016. The appeal does not bear a date stamp from the Commission for the Commission's receipt of the appeal.
- 4.2. The Corrected Prehearing Conference Order stated the parties' agreement that the hearing would be held on Wednesday, January 11, 2017, beginning at 9:00 AM, at the Commission's hearing room in Lacey, Washington, including a certificate of service on all parties.

Scott Robinson:

- 4.3. Scott Robinson is an individual who possesses a Class III Indian Gaming Employee Certification from the Commission to work at the Snoqualmie Casino. Mr. Robinson worked for the Snoqualmie Casino for about a year before the incident that led to this adjudicative proceeding. Mr. Robinson's appeal, page 2 of "rebuttal."
- 4.4. Mr. Robinson has a bachelor of arts degree in history and philosophy, a master of public administration degree, and is working on a doctorate degree in education administration. Testimony and Mr. Robinson's appeal, page 2 of "rebuttal."
- 4.5. Mr. Robinson was an employee of the Snoqualmie Casino and worked there on January 1, 2016.

Snoqualmie Casino Camera Surveillance System:

- 4.6. Jolene Glazier is the director of surveillance at the Snoqualmie Casino. She has held that position for three years. For the five years before that, she was the surveillance supervisor. She has worked in other casinos in Oregon and has received training in Las Vegas.
- 4.7. The Snoqualmie Casino maintains a closed circuit television ("CCTV") to monitor the casino. The Snoqualmie Casino uses the CCTV system for such purposes as monitoring movements of money, compliance with laws, regulations, and casino policies, fraud detection, and audits of employees. The casino has 700 cameras

in this system. The casino maintains the videos from these cameras for seven days.

- 4.8. The casino's CCTV recorded some of the January 1, 2016, incident involving Mr. Robinson and Gary Oliver. Exhibit 17.

The Incident with Gary Oliver:

- 4.9. Gary Oliver was a patron of the Snoqualmie Casino on January 1, 2016.
- 4.10. Mr. Oliver and Brad Goodson, who was also a patron of the casino, engaged in conversation on January 1 near Café Drip. Casino employees were moving carts containing chairs and other equipment that had been used in a performance by a performer known as "Angelo."
- 4.11. Credibility Finding: The testimony of the parties conflicted on material points.
- 4.12. Credibility Finding: Mr. Robinson testified that he asked Mr. Oliver and Mr. Goodson to move so that casino work crews could move carts loaded with chairs and other items through the space where they were standing. Mr. Robinson testified that Mr. Goodson and his girlfriend complied with his request, but Mr. Oliver did not. Mr. Robinson testified that Mr. Oliver argued with Mr. Robinson and swore to Mr. Robinson. Mr. Robinson also testified that he believed Mr. Oliver to have been under the influence of intoxicants. Mr. Robinson testified that he saw an alcoholic beverage in one of Mr. Oliver's hands. Mr. Robinson testified that Mr. Oliver pushed him, swore at him, and struck at him, and that Mr. Oliver grabbed and choked him. Mr. Robinson testified that he dipped at Mr. Oliver's swings and counter-punched Mr. Oliver. Mr. Robinson testified that he threw Mr. Oliver to the ground and assumed an aggressive stance over Mr. Oliver to discourage any more fighting.
- 4.13. Credibility Finding: The only other witness who was present as an eyewitness of the incident on January 1 and who testified at this hearing was Brad Goodson. Mr. Goodson testified that he was a patron at the Snoqualmie Casino on New Year's Eve and into New Year's Day morning on January 1, 2016. Mr. Goodson is visible in the video in Exhibit 17 as the male with a blue and white cap on his head. Mr. Goodson testified that Mr. Robinson asked Mr. Oliver and Mr. Goodson to move so that crews could clean. Mr. Goodson did not know Mr. Oliver before the conversation at the casino captured in Exhibit 17. Mr. Goodson characterized his conversation with Mr. Oliver as "small talk." Mr. Goodson asked Mr. Robinson why he and Mr. Oliver had to leave. Mr. Robinson replied that they were in the way of a cart. Mr. Goodson did not interpret Mr. Robinson's instruction as a request, but rather as a command. Mr. Goodson characterized Mr. Robinson's

behavior as aggressive. Mr. Goodson did not testify that he saw the start of the fight between Mr. Robinson and Mr. Oliver. However, Mr. Goodson's email to the Snoqualmie Casino on January 4, 2016, described the incident: "What your security staff opted to do, was tackle this gentleman and throw multiple punches after pinning him to the ground." Exhibit 3, page 1. Turning to the video, at about 2' 25", in the third camera view (Exhibit 17), Mr. Goodson may be seen talking to other security guards at the east entrance to the casino just before a security guard pinned him before moving out of view of the camera. Exhibit 3, page 1.

- 4.14. Credibility Finding: The Commission's exhibits include witness statements from other security officers (Exhibits, 4, 5 [Mr. Robinson's report to his employer], 6, 7, 8, and 9) and from a guest (10). The security officers did not see the start of the incident. They saw Mr. Oliver on the floor at the east entrance to the casino. The witness statement from Annette Pizarro, who appears to have been a guest, described the incident; however, she was not present to testify under oath and her statements were not subject to cross-examination. Nonetheless, Ms. Pizarro's statement tends to support Mr. Robinson's testimony about the start of the January 1 incident. See the Conclusions of Law for discussion of the hearsay issue.
- 4.15. Credibility Finding: The Commission produced a video that shows some of the incident from January 1. This video shows the events from three different cameras with varying levels of clarity.
- 4.16. Credibility Finding: Having carefully considered and weighed all the evidence, including the demeanor and motivations of the parties, the reasonableness of the testimony, and the totality of the circumstances presented, the ALJ resolves conflicting testimony in favor of the Commission. The ALJ finds the Commission's witnesses' testimony and other evidence to be more logically persuasive than Mr. Robinson's. This case involves more than the question of who was the aggressor, which the ALJ finds to have been Mr. Robinson. The larger issue is whether Mr. Robinson complied with the casino's policy to deescalate confrontations. In that regard, the video shows that Mr. Robinson escalated the situation. In entering these findings, the ALJ need not be persuaded beyond a reasonable doubt as to the true state of affairs, nor must the persuasive evidence be clear, cogent, and convincing. The trier of fact need only determine what most likely happened.
- 4.17. Mr. Robinson approached Mr. Oliver and Mr. Goodson and asked them to move so that the casino employees could move one or more carts through that area. Mr. Oliver did not comply with Mr. Robinson's request.
- 4.18. Mr. Robinson tried to persuade Mr. Oliver to leave the building.

- 4.19. A video of the incident exists as Exhibit 17.
- 4.20. At 2:24:11, the video shows Mr. Oliver and Mr. Robinson as they come into view. When they first come into view from behind a column, neither man appears to be fighting. At 2:24:28, the video shows that Mr. Robinson pushed Mr. Oliver and quickly after that head-butted Mr. Oliver. Exhibit 17.
- 4.21. The final segment of the video applicable to this hearing shows the east entrance to the casino. A female patron walks into view and she quickly moves out of the way as Mr. Robinson and Mr. Oliver tumble into view. Mr. Robinson pushed Mr. Oliver, who fell backward to the floor. Mr. Robinson stood in front of Mr. Oliver, towering over him, waving his arms. Shortly after that, many other security guards walk or run into view and Mr. Robinson's involvement with the incident ended. At one point, Mr. Robinson throws some device attached with a cord to the floor to his left; although not identified, it was possibly his radio. (See, Statement of Mr. Robinson, Exhibit 2, page 2, third paragraph.) Exhibit 17.
- 4.22. The King County Sheriff's Office responded to a call about the incident.
- 4.23. The King County Sheriff's Office created an incident report about the January 1, 2016, incident. Mr. Oliver did not wish to file charges and he left the casino to drive home. The incident report notes that Deputy Noel interviewed Mr. Oliver. Mr. Oliver did not appear to be intoxicated and said he had not been drinking. No charges were filed against Mr. Robinson. Exhibit A.

The Casino's Policy Regarding Use of Force by Security Officers:

- 4.24. Ken Hooper was Mr. Robinson's manager. Mr. Hooper is a former police officer with 29 years of experience. His job duties are to oversee the day-to-day operations of casino security.
- 4.25. Mr. Hooper had the obligation to investigate the incident as a casino employee. That investigation included gathering the facts, making factual findings, and proposing a resolution. Mr. Hooper relied upon witness statements and the video surveillance. See, Exhibits 3, 4, 5, 6, 7, 8, 9, 10, and 17.
- 4.26. Snoqualmie Casino security officers receive a one week training course at the time they are hired. After that first week, the newly hired security officers are assigned to field training officers for four weeks. The casino uses a checklist to record whether the newly hired security officers perform appropriately during this four week period. After successful completion of the four week period, the casino assigns the newly hired security officers to work on their own but under observation for 90 days. After completion of that 90 day period, each security

officer must attend a monthly training on various topics regardless of the duration of their employment as security officers with the casino.

- 4.27. The Snoqualmie Casino has a "use of force" policy. Its first point is that "members are required to attempt to de-escalate situations when feasible." Its second point is that physical force upon another person is authorized "in such cases as (i) self-defense, or (ii) defense of others, or (iii) effecting a lawful arrest. Exhibit 13, page 3.
- 4.28. Mr. Hooper viewed the videos of the January 1, 2016 incident. Mr. Hooper concluded that Mr. Oliver did not attack Mr. Robinson and that Mr. Robinson's actions constituted "gross misconduct." See, Exhibit 14.
- 4.29. Mr. Hooper concluded that Mr. Robinson should have called for assistance from other security officers when Mr. Oliver failed to comply with Mr. Robinson's instruction to move out of the way of the carts.

The Casino's Revocation of Mr. Robinson's License:

- 4.30. Mark Della is a Snoqualmie Gaming Commission inspector. He is supervised by Mr. Hooper. Mr. Della prepared a memorandum of the January 1 incident for Vander McInnis. Mr. McInnis is the Snoqualmie Casino manager. The date of the report is January 4, 2016. The report recommends that the Snoqualmie Gaming Commission revoke Mr. Robinson's gaming license. Exhibit 13.
- 4.31. The Snoqualmie Gaming Commission wrote to Mr. Robinson on January 8, 2016, to inform him of a hearing for the purpose of possibly revoking his gaming license on January 22, 2016, at 2:30 PM. Mr. McInnis signed the letter. Exhibit 15.
- 4.32. Vander McInnis is the Director of the Snoqualmie Gaming Commission. He has held that position for about a year. In 2016, he was the Snoqualmie Gaming Commission's manager. In his capacity as the manager, he presented the case against Mr. Robinson to the Snoqualmie Gaming Commission. The Snoqualmie Gaming Commission is independent of the Snoqualmie Casino.
- 4.33. On January 25, 2016, the Snoqualmie Gaming Commission notified Mr. Robinson that it had revoked his gaming license effective January 22, 2016. Mr. McInnis signed the letter. Exhibit 16.

The Commission's Investigation:

- 4.34. Mike Lopez is a Special Agent employed by the Commission. He has worked for the Commission for over 26 years and has extensive experience there. He has

also had extensive training in gambling law enforcement over the years of his employment at the Commission.

- 4.35. Special Agent Lopez received an email on January 22, 2016, from the Snoqualmie Gaming Commission informing him that the Snoqualmie Gaming Commission had revoked Mr. Robinson's gaming license on that same date.
- 4.36. Mr. Robinson never notified the Washington State Gambling Commission of the Snoqualmie Gaming Commission's action against his license or the final outcome of the hearing. Mr. Robinson received the Snoqualmie Gaming Commission's notice of its action on January 25, 2016.
- 4.37. In his investigation, Special Agent Lopez found no criminal charges against, or convictions against, Mr. Robinson.
- 4.38. Special Agent Lopez viewed the casino's video of the January 1 incident, which he received on or about February 3, 2016.
- 4.39. Special Agent Lopez wrote Case Report No. 2016-00440 summarizing his investigation of the January 1 incident involving Mr. Robinson and containing his recommendations to the Commission. Special Agent Lopez recommended that the Commission revoke Mr. Robinson's Class III Certification.

5. CONCLUSIONS OF LAW

Based upon the facts above, the ALJ makes the following conclusions:

Jurisdiction

- 5.1. The Office of Administrative Hearings has jurisdiction to hear and initially decide this matter in an adjudicative proceeding. RCW 9.46.140; 34.05.413, 34.12.030(1), and WAC 230-17-025. The Commission received Mr. Robinson's request for an administrative hearing, but the request for an administrative hearing is undated. Twenty-three days is the time allowed if service is made by regular United States mail. WAC 230-17-010(2)(a). Twenty days is the time allowed if service is made by certified mail. WAC 230-17-010(2)(b). Mr. Robinson dated his appeal June 9, 2016. However, as noted in the Findings of Fact, the request for hearing is not date-stamped received by the Commission. It is the appellant's responsibility to file a timely appeal. The Commission did not raise any objection to timeliness, implying that the appeal was timely filed, although documentary proof is absent. Therefore, the ALJ concludes that the appeal was timely filed in the absence of evidence to the contrary.

Statutes, Rules, and Analysis:

- 5.2. The Commission bases its revocation of Mr. Robinson's gambling license on the provisions of RCW 9.46.075(1), (7), and (8); RCW 9.46.153(1); WAC 230-03-085(1) and (8); WAC 230-06-090(1); and the Snoqualmie Tribe-State Compact, Sections V(C)(1), (2), and (4). Conclusions of Law No. 5.3 through 5.9 contain the applicable language of these statutes and administrative rules.
- 5.3. RCW 9.46.075 is the Commission's legislative grant of authority to deny, suspend, or revoke gambling licenses or permits. "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:
- 5.3.1. (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;
- 5.3.2. (7) Makes a misrepresentation of, or fails to disclose, a material fact to the commission;
- 5.3.3. (8) Fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of this chapter;
- 5.4. RCW 9.46.153(1) is a statute containing a separate statement of RCW 9.46.075(8) and that requires applicants to prove their eligibility for a license:
- 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[.]"
- 5.5. "Clear and convincing evidence," as that term is used in RCW 9.46.153(1), is a higher burden of proof than "preponderance of the evidence." See, *Hardee v. Department of Social and Health Services*, 172 Wn.2d 1, 6-18, 256 P.3d 339 (2011).

5.6. The Commission also relies on its administrative rules. WAC 230-03-085 states in plain language when the Commission will deny, suspend, or revoke an application, license or permit. "We [referring to the Commission] 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:

5.6.1. (1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075; or

5.6.2. (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[.]”

5.7. WAC 230-06-090(1) states, "All licensees must report to us in writing within thirty days all administrative actions filed against them by other gambling regulatory agencies, including those from other countries and Indian tribes.

5.8. The Tribal-State Compact for Class III Gaming Between the Snoqualmie Indian Tribe and the State of Washington is an agreement between sovereign nations consistent with the Centennial Accord dated August 4, 1989. The Tribal-State Compact for Class III Gaming Between the Snoqualmie Indian Tribe and the State of Washington (hereinafter, "the Compact") is dated March 14, 2011.

5.9. Section V of the Compact is "Licensing and Certification Procedures. Section V(C) and its pertinent subsections provide:

Grounds for Revocation, Suspension or Denial of State Certification. The State Gaming Agency may revoke, suspend or deny a State certification under the provisions of RCW 9.46.075, and rules promulgated thereunder, 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 an applicant or holder of certification or principal of an entity:

- (1) Is determined to be a person who because of prior activities, criminal record, if any, or reputation, habits and associations poses a threat to the effective regulation of gaming or creates or enhances the chances of unfair or illegal practices, methods and activities being used in the conduct of the gaming activities permitted pursuant to this Compact:
- (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.
- (4) Has had a Tribal or State gaming license revoked or denied during the twelve (12) months prior to the date the Tribe received the application; is currently on probation imposed by any jurisdiction; or 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 any gaming license. For the purpose of reviewing any application for a state certification or for considering the denial, suspension or revocation of any state certification, the State Gaming Agency may consider any prior criminal conduct or current probationary status of the 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.

5.10. What is this case about? Mr. Robinson was a security guard who believed that he needed to ask two patrons to move from where they were standing in order that other casino employees could do their jobs of moving equipment from one location to another. This case is not about whether that judgment was correct or faulty. When he asked the patrons to move, Mr. Oliver did not comply. The available evidence suggests that he disputed the instruction from Mr. Robinson and argued with him. This case is not about the argument. However, this case begins to take shape with the argument between Mr. Robinson and Mr. Oliver. When Mr. Oliver refused to comply, Mr. Robinson shoved Mr. Oliver. At that moment, the incident quickly escalated into one of those events where, afterward, people must ask themselves "what just happened?" The ALJ answers his own question "what is this case about:" it is about Mr. Robinson's failure to de-escalate a confrontation in disregard of his employer's instructions.

5.11. The only reason why Mr. Robinson asked Mr. Oliver to move in the first place was to clear the way for the carts. The ALJ concludes that Mr. Robinson had

time to call for assistance to remove Mr. Oliver when Mr. Oliver did not comply with Mr. Robinson's instruction. The video shows Mr. Robinson talking with Mr. Oliver and Mr. Goodson for over two minutes before the fight began. Once the fight began, Mr. Robinson did not disengage with Mr. Oliver but, instead, aggressively pursued him. At some point, Mr. Robinson radioed for assistance because it is clear from the video that assistance arrived very shortly after Mr. Robinson was standing over Mr. Oliver, who was by that time lying on his back on the floor at the east entrance to the casino.

- 5.12. The ALJ admitted and read the Commission's exhibits from the other security guards and from Ms. Pizzaro. They were not present at the hearing and, thus, were not sworn and not subject to cross-examination. Consequently, their statements are hearsay. RCW 34.05.452(1) allows an ALJ to admit hearsay evidence "if in the judgment of the presiding officer it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs." Nonetheless, a finding of fact cannot be based solely on hearsay evidence. With regard to the start of the fight, the security guards' statements do not address the start of the fight because none of them was present at the start of the fight. Ms. Pizzaro apparently was, but her written statement conflicts with the video. The video is the only evidence that gives third parties a view of what happened at the start of the fight. The ALJ concluded that Mr. Robinson started the fight when he shoved Mr. Oliver.
- 5.13. The ALJ concludes that the Commission has proved by a preponderance of the evidence that Mr. Robinson's failure to report the proposed revocation of his gaming license by the Snoqualmie Gaming Commission violated RCW 9.46.075(1), WAC 230-03-085(1) and (7), and WAC 230-06-090(1) by failing to report that proposed revocation to the Commission within 30 days of the filing of the action by the Snoqualmie Gaming Commission. Mr. Robinson received notice of the proposed action from the Snoqualmie Gaming Commission in the notice to him dated January 8, 2016. The ALJ further concludes that Mr. Robinson's failure to report the Snoqualmie Gaming Commission's revocation of his license, for which he received notice in the letter dated January 25, 2016, violated those same cited provisions.
- 5.14. The ALJ concludes that Mr. Robinson's assault on a casino guest demonstrated his knowing and willful disregard for complying with the ordinances, statutes, administrative rules, or court orders as required by RCW 9.46.075(1) and WAC 230-03-085(3). Even though Mr. Oliver may have been hostile and confrontational to Mr. Robinson, Mr. Robinson was the trained security guard who should have complied with his training from the casino. That training exists in part to avoid situations like the one that resulted in this hearing.

5.15. Mr. Robinson's actions establish that he is a threat to the effective regulation of gambling pursuant to WAC 230-03-085(8). The statutes and administrative rules do not expressly speak of revoking a license based on a licensee's failure to comply with the licensee's employer's rules of employee conduct. But there is a nexus between the effective regulation of gambling and a security guard's failure to de-escalate combative situations in accordance with the employer's written instructions.

5.16. On the question of whether Mr. Robinson proved by clear and convincing evidence that he has the necessary qualifications for licensure under Chapter 9.46 RCW, Mr. Robinson comes across as a truthful man. He testified with candor about the January 1 incident. From his perspective, Mr. Oliver started the fight by swinging against Mr. Robinson and Mr. Robinson responded in kind. This ALJ found that Mr. Robinson started the fight when Mr. Robinson shoved Mr. Oliver. Mr. Robinson has paid for his decision at the cost of his job and his tribal gaming license. The ALJ concludes that Mr. Robinson has not met his burden of proof by clear and convincing evidence under RCW 9.46.075(8) and 9.46.153(1). As noted in Conclusion of Law 5.5, "clear and convincing evidence" is a higher burden of proof than "preponderance of the evidence." It is a high burden.

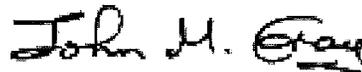
5.17. The ALJ concludes that the Commission established a prima facie case that establishes valid grounds for revocation of Mr. Robinson's gambling license.

6. INITIAL ORDER

IT IS HEREBY ORDERED THAT:

6.1. The Commission's decision to revoke Mr. Robinson's Indian Gaming Employee Certification, no. 69-37575, is **AFFIRMED**.

Issued from Tacoma, Washington, on the date of mailing.



John M. Gray
Administrative Law Judge
Office of Administrative Hearings

APPEAL RIGHTS

PETITION FOR REVIEW

Any party to this proceeding may file a Petition for Review of this initial order. The written petition for review must be mailed to the Washington State Gambling Commission at:

Washington State Gambling Commission
PO Box 42400
Olympia, WA 98504

The petition for review must be **received** by the Commission within **twenty (20) days** from the date this initial order was mailed to the parties. A copy of the petition for review must be sent to all parties of record. The petition for review must specify the portions of the initial order with which the party disagrees, and must refer to the evidence in the record which supports the party's position. The other party's reply must be **received** at the address above, and served on all parties of record, within **thirty (30) days** from the date the petition for review was mailed.

Any party may file a cross appeal. Parties must file cross appeals with the Washington State Gambling Commission within ten days of the date the petition for review was filed with the Washington State Gambling Commission. Copies of the petition or cross appeal must be served on all other parties or their representatives at the time the petition or appeal is filed.

CERTIFICATE OF MAILING IS ATTACHED

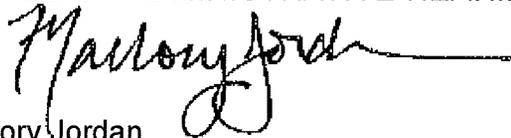
CERTIFICATE OF SERVICE FOR DOCKET NO. 07-2016-GMB-00010

I certify that true copies of this document were served from Tacoma, Washington upon the following as indicated:

<p>Scott A. Robinson 32 5th Street NW #C Auburn, WA 98001 Appellant</p>	<p><input checked="" type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>
<p>Aryna Anderson PO Box 40100 MS: 40100 Olympia, WA 98504 Assistant Attorney General</p>	<p><input type="checkbox"/> First Class Mail, Postage Prepaid <input type="checkbox"/> Certified Mail, Return Receipt <input type="checkbox"/> Hand Delivery via Messenger <input checked="" type="checkbox"/> Campus Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> E-mail</p>

Date: Monday, March 13, 2017

OFFICE OF ADMINISTRATIVE HEARINGS



Mallory Jordan
Legal Assistant

ATTORNEY GENERAL
OF WASHINGTON
MAR 14 2017
GOVERNMENT COMPLIANCE
& ENFORCEMENT