

OFFICE OF INTERNAL AUDIT AND ETHICS
Ethics Investigations Report
November 30, 2022

Case Number: 2022-8-38

Date Filed: August 31, 2022

Complainant: Confidential

Respondent: Shannon Ross

I. ALLEGATION

The above-named respondent, Mr. Shannon Ross a member of the Tribal Alcoholic Beverage Control Commission (TABCC), violated Cherokee Code Section 117-45 Standards of Ethical Conduct when he failed to act in a professional manner and attempted to use the prestige of his office to influence and intimidate others. The events that led up to this allegation were:

- On 8/20/2022 Mr. Ross was at Harrah's Cherokee Casino where he identified himself as an Alcohol Law Enforcement (ALE) Officer to bartender ██████████ ██████████ in an attempt to convince ██████████ to violate the casino's alcohol policy and serve him a second cocktail before he had finished his first.
- On 8/24/2022 ██████████ encountered Mr. Ross at Harrah's Cherokee Casino again. Mr. Ross was being loud and obnoxious and using terrible language causing guests to leave the area. Bartender ██████████ also encountered Mr. Ross later that evening. Mr. Ross attempted to get ██████████ to violate the casino's alcohol policy by instructing him to sit a second cocktail behind the machine until Mr. Ross finished his first and then he would grab it. ██████████ informed Mr. Ross that was a violation of policy, and he had to finish the first cocktail before he could be served another. Mr. Ross again identified himself as an ALE Officer and as the person responsible for writing the Tribe's alcohol law and informed ██████████ he was wrong in regard to policy.
- On 8/25/2022, just after midnight, Beverage Supervisor ██████████ was called to Sports Book Bar 2 by ██████████ regarding Mr. Ross claiming to be ALE and wanting extra alcohol. ██████████ approached Mr. Ross where he again identified himself as an ALE Officer. Mr. Ross argued with her about why he could not be served a second cocktail while he still had one in hand. ██████████ then red-lighted Mr. Ross for being intoxicated. Mr. Ross then asked her if she knew Mike, the attorney for TABCC, and advised her not to call security. When ██████████ called security Mr. Ross became irate. He informed ██████████ he was Josh Taylor's (Chief ALE Officer) boss, and he would just call Josh. Once Josh arrived, he took over the situation and eventually drove Mr. Ross home.

II. RELEVANT CHEROKEE CODE SECTIONS

Section 117-45.1(a) Definitions

“(1) *Tribal officials*. Any person who is:

- c. Serving as a member of an authority, board, committee, or commission, appointed by Tribal Council, the Executive Committee or Principal Chief, and who is subject to removal by the appointing authority;

Section 117-45.3(d) Code of Ethics

“(1) Tribal officials of the EBCI shall treat service to the EBCI as a sacred public trust with fiduciary responsibility to the EBCI, which requires upholding and acting in accordance with the laws of the EBCI and engaging in the proper governance of the EBCI in a manner, which is placed above personal and private gain.”

“(5) Tribal officials of the EBCI shall not use prestige of the office to advance personal interests of others or themselves.”

“(6) Tribal officials of the EBCI shall disclose instances when they believe there has been fraud, waste, abuse, corruption, or violations of this chapter to the Office of Internal Audit and Ethics.”

“(10) Tribal officials of the EBCI shall not act individually, jointly or through another, threaten, intimidate, or discipline any person as reprisal for any legitimate action taken by the person.”

“(14) Tribal officials of the EBCI may participate in private, public, civic, and/or charitable activities provided such activities do not detract from the dignity of the office or interfere with the performance of official duties.”

“(15) Tribal officials shall maintain or enhance the honesty and integrity of their respective offices; and safeguard the reputation of the EBCI as a whole.”

III. INVESTIGATION PROCESS

The initial complaint was received on August 31, 2022. The complainant provided a statement of the events that occurred at the casino on the evening of August 24, 2022, and into the morning hours of August 25, 2022.

The complaint was determined to be complete and within the jurisdiction of the Office of Internal Audit and Ethics. A copy of the complaint was sent to the respondent Mr. Ross on September 1, 2022. A response was received from Mr. Ross on September 6, 2022.

The Ethics Review Committee reviewed the complaint and response in a special-called meeting, on September 15, 2022. The Committee approved for the ethics staff to proceed with an investigation. (See Resolution ERC 22-06)

Interviews were conducted October 6 through October 12, 2022, with Tribal Alcohol Beverage Control Commissioners and Tribal Alcohol Law Enforcement personnel who witnessed or were aware of this incident. Harrah's Cherokee Casino personnel were interviewed or provided witness statements on November 1, 2022. These interviews were conducted to obtain more information in understanding the events as stated in the complaint. Video footage from Harrah's Cherokee Casino of Mr. Ross at the casino on the night of the incident was reviewed on October 12, 2022.

Respondent Mr. Ross was scheduled for interviews on November 18, and November 28, 2022. Mr. Ross failed to show for both interviews.

IV. FINDINGS OF FACT

1. The respondent is a Tribal Official as defined in Cherokee Code Section 117-45.1(c).
2. The respondent is an enrolled member of the EBCI.
3. The complainant is an enrolled member of the EBCI.
4. The respondent serves as a Tribal Alcoholic Beverage Control Commissioner.
5. The respondent was present at Harrah's Cherokee Casino on the evening of August 24, 2022, and into the morning hours of August 25, 2022.
6. The respondent identified himself as a Tribal ALE Officer while at the casino.
7. The respondent argued with Harrah's Cherokee Casino personnel about Tribal alcohol law while at the casino.

V. ANALYSIS

The complaint alleges the respondent violated six sections of Cherokee Code Section 117-45.3(d). An analysis is outlined below.

It is alleged that the respondent failed to treat service to the EBCI as a sacred public trust with fiduciary responsibility to the EBCI, which requires upholding and acting in accordance with the laws of the EBCI and engaging in the proper governance of the EBCI in a manner, which is placed above personal and private gain. (Section 117-45.3(d)(1))

Dismissed. There is not sufficient evidence to support this allegation.

It is alleged that the respondent used the prestige of the office to advance personal interests of others or themselves. (Section 117-45.3(d)(5))

Violation. There is sufficient evidence to substantiate that Mr. Ross used the prestige of his office to advance personal interests of others and himself on August 24-25, 2022.

Multiple witnesses state Mr. Ross identified himself as an ALE Officer and as the person that wrote the alcohol laws for the Tribe in an attempt to persuade Harrah's Cherokee Casino personnel to violate the casino's alcohol policy by serving him multiple cocktails at the same time.

It is alleged that the respondent failed to disclose instances when they believe there has been fraud, waste, abuse, corruption, or violations of this chapter to the Office of Internal Audit and Ethics. (Section 117-45.3(d)(6))

Dismissed. There is not sufficient evidence to support this allegation.

It is alleged that the respondent acted individually, jointly or through another to threaten, intimidate, or discipline any person as reprisal for any legitimate action taken by the person. (Section 117-45.3(d)(10))

Violation. There is sufficient evidence to substantiate that Mr. Ross's actions on August 24-25, 2022, were threatening and intimidating.

Mr. Ross' statement that "he was ALE Officer and that he wrote the laws, so he knows the laws" was a clear attempt to intimidate Harrah's Cherokee Casino personnel to receive multiple cocktails. Mr. Ross also intimidated casino staff when he instructed them not to call security and asked if they knew the attorney that represented the TABCC. When security was called Mr. Ross became irate and stated he was Josh Taylor's boss, and he would just call him.

It is alleged that the respondent participated in a private activity that detracted from the dignity of the office or interfered with the performance of official duties. (Section 117-45.3(d)(14))

Violation. There is sufficient evidence to substantiate that Mr. Ross' actions on August 24-25, 2022, detracted from the dignity of his office and interfered with the performance of official duties.

Mr. Ross' actions of being intoxicated and attempting to intimidate the bartenders at Harrah's Cherokee Casino to receive another cocktail detracted from the dignity of his respective office. Mr. Ross explicitly referenced his office during this interaction and attempted to alter the casino's alcohol policy when he had no authority to do so.

It is alleged that the respondent failed to maintain or enhance the honesty and integrity of his respective office; and safeguard the reputation of the EBCI as a whole. (Section 117-45.3(d)(15))

Violation. There is sufficient evidence to substantiate that Mr. Ross' actions did not safeguard the reputation of the Tribal Alcoholic Beverage Control Commission, Tribal Alcohol Law Enforcement, or the EBCI as a whole.

Mr. Ross' actions created a situation where it appears that Tribal officials are allowed to abuse their authority for personal gain. His assertion that he was an ALE Officer not only

misrepresented his authority but also tarnished the reputation of the Alcohol Law Enforcement office.

VI. CONCLUSION AND RECOMMENDATION

There is probable cause of an Ethics Code Violation of Sections 117-45.3(d)(5), 117-45.3(d)(10), 117-45.3(d)(14), and 117-45.3(d)(15), for the reasons set forth in the report. The Audit and Ethics Committee will assess a fine and further action if needed. This report will also be forwarded to the Tribal Alcoholic Beverage Control Commission, the Executive Office, and Tribal Council.

Report prepared and submitted by:

Jasheena Parker
Case Manager/Lead Investigator

11/30/22
Date

VII. REVIEW BY ETHICS REVIEW COMMITTEE

- Affirm probable cause determination
- Issue this report to complainant and respondent as final decision
 - Issue revised report to complainant and respondent as final decision
- Deny probable cause determination
- Request further investigation prior to further decision by the committee
 - Request hearing prior to further decision by the committee
- Affirm no-probable cause determination
- Dismiss complaint with issuance of this report to complainant and respondent as the final decision
 - Dismiss complaint, with issuance of revised report to complainant and respondent
- Deny no-probable cause determination
- Request further investigation prior to further decision by the committee
 - Request hearing prior to further decision by the committee

VIII. RECOMMENDED VIOLATION CONSEQUENCES BY THE ETHICS REVIEW COMMITTEE

- Impose a \$1,000 fine.
- Require Mr. Ross obtain an alcohol assessment with adherence to the recommendations of that assessment.

I hereby certify that the above decision was approved by majority of voting members of the Ethics Review Committee.

Jasheena Parker
Ethics Review Committee Chair

12/7/22
Date

IX. FINAL DECISION BY AUDIT AND ETHICS COMMITTEE

- Affirm decision and recommendation of the Ethics Review Committee as final
- Request further investigation prior to decision
- Overturn decision and recommendation of the Ethics Review Committee in part as described below
- Overturn decision and recommendation of the Ethics Review Committee and dismiss the complaint in its entirety
- Other as described below

I hereby certify that the above decision was approved by majority of voting members of the Audit and Ethics Committee.

Lori Lamb
Audit and Ethics Committee Chair

1.18.23
Date