

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the Certification) NO. CR 2014-01765
to Conduct Gambling Activities of:)
)
Dianna M. Breitkopf)
Edgewood, Washington,)
)
)
Class III Employee.)

**FINDINGS, CONCLUSIONS,
DECISION, AND FINAL
ORDER IN DEFAULT**

THE MATTER of the revocation of the certification to conduct gambling activities of Dianna M. Breitkopf, having come before the Commission on February 13, 2015, 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 Dianna M. Breitkopf the following Class III Employee certification:¹

Number 69-16530, authorizing Class III Employee activity, formerly at Muckleshoot Casino in Auburn.

The certification expires on February 5, 2015, and was issued subject to the Class III employee's compliance with state gambling laws and rules and the Muckleshoot Tribal Gaming Commission's Tribal/State Compact.

II.

On December 2, 2014, Director David Trujillo issued administrative charges to Dianna M. Breitkopf, by regular and certified mail. The administrative charges notified Ms. Breitkopf that failure to respond would result in the entry of a default order revoking her certification. Ms. Breitkopf did not respond to the charges and waived her right to a hearing. Pursuant to RCW 34.05.440, this final order is entered in default.

¹ The Commission issues Class III certifications to Tribal casino employees. Certifications allow similar activities as Card Room Employee (CRE) licenses for persons working at commercial house-banked card rooms. Class III employees may transfer their certifications to a CRE license and work at commercial card rooms by sending Commission staff a transfer form and the accompanying fee.

III.

SUMMARY:

On August 7, 2014, the Muckleshoot Gaming Commission revoked Dianna M. Breitkopf's certification because she committed a theft of \$100.

FACTS:

- (1) A Washington State Gambling Commission Special Agent (agent) was assigned Ms. Breitkopf's file after the Muckleshoot Gaming Commission (MGC) notified Commission staff of her revocation and provided the Incident File Report, including supporting documentation.
- (2) According to the Incident File Reports, the MGC opened an investigation into a \$100 variance that resulted in a loss to the casino. On July 2, 2014, MGC surveillance received a call regarding an unusual cage variance from the previous day. The Cage Supervisor stated there was a \$100 chip variance from the Window 33 Bank Reserve. The area around Window 33 was searched in hope of locating the missing chip, which was not found. Paperwork reviewed for the Window 33 Bank shows that it was verified as correct twice prior to the variance being reported by Ms. Breitkopf.
- (3) MGC reviewed surveillance relating to the variance and observed that Ms. Breitkopf appeared to put something in her left shoe while on the ground in front of the Window 33 Bank Reserve.
- (4) On July 4, 2014, MGC interviewed Ms. Breitkopf about the variance. During the interview, Ms. Breitkopf admitted to stealing the \$100 chip and placing it in her sock on July 1, 2014. Ms. Breitkopf stated that she needed the money for gas and that she had her daughter, April, cash out the stolen chip. Ms. Breitkopf provided a written statement about the incident.
- (5) On July 23, 2014, Ms. Breitkopf was sent a letter regarding the suspension of her tribal gaming license. She was sent a Notice of Hearing form, notifying her that a revocation hearing was scheduled for August 7, 2014. This letter was returned to MGC marked "return to sender, unclaimed, unable to forward." MGC continued with their revocation proceedings.
- (6) On August 7, 2014, a revocation hearing was held for Ms. Breitkopf. Ms. Breitkopf did not attend this hearing. That same day Ms. Breitkopf was sent a letter as notification that her license was revoked by MGC. She was also notified that she had been barred from entering the Muckleshoot Indian Casino or Muckleshoot Indian Bingo.
- (7) On September 19, 2014, the agent received confirmation from MGC that no criminal charges were filed against Ms. Breitkopf for this theft.

VIOLATIONS:

1) **Section V. C. of the Tribal-State Compact for Class III Gaming with the Muckleshoot Tribe.**

The State Gaming Agency² 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:

(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 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.

(3) Has a Tribal license revoked and demonstrated willful disregard for compliance.

2) **RCW 9.46.075 Denial, suspension, or revocation of license, 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 certified employee, 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 she 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;

3) **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,

² Washington State Gambling Commission, as referred to in Section II.V. of the Tribal-State Compact for Class III Gaming for the Muckleshoot Tribe.

licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization:

(The following subsection applies.)

(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; or (b) Criminal record; or (c) Reputation; or (d) Habits; or (e) Associations.

4) 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.

Ms. Breitkopf poses a threat to the effective regulation of gambling and has failed to prove she is qualified to hold a certification based on the revocation of her tribal gaming license by the Muckleshoot Tribal Gaming Commission. By having her license revoked, Ms. Breitkopf has failed to establish, by clear and convincing evidence as required by RCW 9.46.153(1), that she is qualified to be certified. Grounds therefore, exist to revoke Ms. Breitkopf's Class III Employee certification under the Muckleshoot Tribal/State Compact, RCW 9.46.075(1), (8), and (10), and WAC 230-03-085(1) and (8).

IV.

CONCLUSIONS OF LAW

The circumstances specified in the Findings of Facts in section III above constitute grounds for the revocation of Dianna M. Breitkopf's certification to conduct gambling activities under the authority of the Tribal/State Compact, RCW 9.46.075 and WAC 230-03-085.

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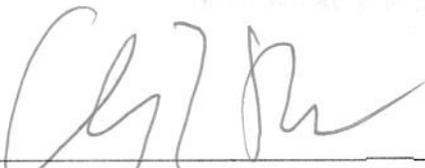
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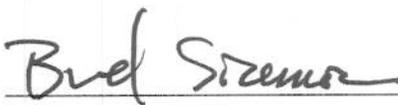
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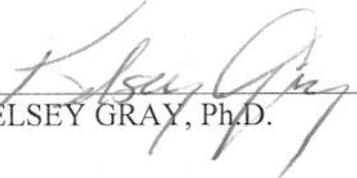
DECISION AND ORDER

The Washington State Gambling Commission HEREBY ORDERS: Dianna M. Breitkopf's certification to conduct gambling activities is REVOKED.

DATED this 13th day of February 2015.


CHRISTOPHER STEARNS, CHAIR

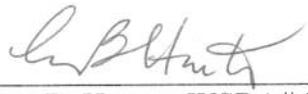

BUD SIZEMORE, VICE CHAIR


KELSEY GRAY, Ph.D.


JULIA PATTERSON


ED TROYER

PRESENTED BY:


Amy B. Hunter, WSBA# 23773
Deputy Director
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.

NOTICE: Petition for Judicial Review

You have the right to appeal this Final Order to Superior Court, pursuant to the Petition for Judicial Review provisions of RCW 34.05.542. Any Petition for Judicial Review of this Final

Order must be filed with the court and served upon both the Commission and the Office of the Attorney General within thirty-days (30) after the date this Final Order is served upon you.

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

Washington State Gambling Commission
Communications & Legal Division
PO Box 42400
Olympia, Washington 98504-2400

Gregory J. Rosen
Assistant Attorney General
P.O. Box 40100
Olympia, WA 98504-0100

STATE OF WASHINGTON)
)SS
COUNTY OF THURSTON)

I hereby certify that I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 18 day of February, 2015

Maureen Priddy
Communications and Legal Department
Washington State Gambling Commission