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GAMBLING COMMISSION
COMM & LEGAL DIVISION

In the Matter of the Revocation of the)
Class III Certification to Conduct)
Gambling Activities of:)
Gail Shurtz,)
Rochester, Washington)
Class III Employee.)

NO. CR 2009-00332

SETTLEMENT ORDER

This Settlement Order is entered into between the Washington State Gambling Commission and Gail Shurtz. The Gambling Commission is represented by H. Bruce Marvin, Assistant Attorney General, and Melinda Froud, Staff Attorney. The licensee is representing herself.

I.

The Washington State Gambling Commission issued Gail Shurtz the following Class III Employee certification:¹

Number 69-27642, Authorizing Class III Employee Activity, formerly for the Chehalis Confederated Tribes.

The certification expires on June 23, 2009, and was issued subject to the certified employee's compliance with state gambling laws, rules, and the Chehalis Tribal-State Compact

II.

The Director issued a Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding to Gail Shurtz on May 26, 2009. On June 3, 2009, Commission staff received the certificate holder's Application for an Adjudicative Proceeding and Request for Hearing.

III.

The following facts and violations were alleged in the Notice of Administrative Charges:

1) On February 23, 2009, Chehalis Lucky Eagle Tribal Gaming Agency (TGA) Director Earl McWhorter advised a Washington State Gambling Commission (WSGC) Special Agent Supervisor of an incident involving an employee stealing \$5,000 from the Soft Count Room.²

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 The Soft Count Room is where all money that is collected from the Tribal lottery System (TLS) machines, game tables, Class II TLS machines, restaurant, bars, etc, is counted and recorded.

- 2) The supervisor forwarded the incident to a Commission Special Agent (agent) for follow up.
- 3) The agent contacted Mr. McWhorter and obtained a copy of his report regarding the theft. The employee was identified as Gail Shurtz, Class III employee.
- 4) The report revealed that on February 21, 2009, at approximately 6:40 p.m., Mr. McWhorter received a call from Assistant Director of Surveillance, Marvin Youckton, advising him of a possible theft of \$5,000 from the soft count room. Mr. McWhorter then contacted TGA Agent Jason Hartman, who informed him that the room had been cleaned and searched, including the trash. No money was located.
- 5) On February 22, 2009, Mr. McWhorter was advised by the Surveillance Department, that after reviewing video recordings, they had a suspect. The suspect was identified as Gail Shurtz, one of the Soft Count team members.
 - Surveillance revealed that while Ms. Shurtz was working in the Soft Count Room at approximately 2:13 p.m. on February 21, 2009, she removed a \$5,000 strap of \$100 bills by taking her left hand and reaching down to a cart on her left side containing strapped money.
 - She then removed the strapped bills and placed her hands together under the Count table. Ms. Shurtz then stuck the money under her shirt and down the front of her pants, while others in the room were busy working.
 - About one minute later, Ms. Shurtz stands up, turns her back to the others in the room, and adjusts the bills in her pants. She then gets a glass of water and returns to her seat.
 - When Ms. Shurtz leaves the Soft Count Room for her next break, she goes straight to the restroom.
- 6) On February 22, 2009, Mr. McWhorter and TGA agent Warren Bailey interviewed Ms. Shurtz. She was advised of her rights, and said she understood them. When asked if she was aware of the missing \$5,000, Ms. Shurtz answered in the affirmative. Ms. Shurtz initially denied any knowledge of the theft, but when confronted with the surveillance information, admitted to taking the money. Ms. Shurtz admitted further to spending approximately \$100 of the money, with the remaining cash located in her car. The remaining money was recovered, and counted at \$4,912.
- 7) The Thurston County Sheriff was called, and Ms. Shurtz was arrested and charged with Theft in the first degree. On May 20, 2009, Ms. Shurtz was convicted of Theft in the first degree.
- 8) The Chehalis Tribal Gaming Commission revoked Ms. Shurtz's Class III certification, and Ms. Shurtz was barred from the Chehalis Lucky Eagle Casino.
- 9) Therefore, grounds exist to revoke Gail Shurtz's Class III Employee certification under the Chehalis Nation Tribal-State Compact V(C)(1) and (3), RCW 9.46.075(1) and (8), and WAC 230-03-085(1) and (8), RCW 9.46.153(1), and RCW 9.46.190 (1) and(3).

Chehalis Tribal/State Compact Section V(C)(1) and (3)

Provides that the State Gaming Agency³ may revoke or suspend 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:

(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 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 had a Tribal or State gaming license revoked or denied during the twelve (12) months prior to the date of receipt of the application; is currently on probation; or has demonstrated a willful disregard for compliance with gaming regulatory authority in any jurisdiction, including offenses that could subject the individual to revocation of a gaming license.

For the purpose of reviewing any application for a state certification and for considering the revocation of any state certification the state gaming agency may consider any prior criminal conduct of the holder of certification.

RCW 9.46.075(1), (8) and (9) provides that 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:

(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.

(9) Is subject to current prosecution or pending charges, or a conviction which is under appeal, for any of the offenses included under subsection (4) of this section: PROVIDED, That at the request of an applicant for an original license, the commission may defer decision upon the application during the pendency of such prosecution or appeal.

RCW 9.46.190 (1) and (3) provides that any person, association, or organization operating any gambling activity who or which directly, or indirectly, shall in the course of such operation;

(1) Employ any device, scheme, or artifice to defraud; or

(3) Engage in any act, practice or course of operation as would operate as a fraud or deceit upon any person shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021.

³ Washington State Gambling Commission, as referred to in the Chehalis Tribal/State Compact, Section II (T).

RCW 9.46.153(1) provides that 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.

WAC 230-03-085(1) and (8) provides that 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 licensee's business or organization:

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

IV.

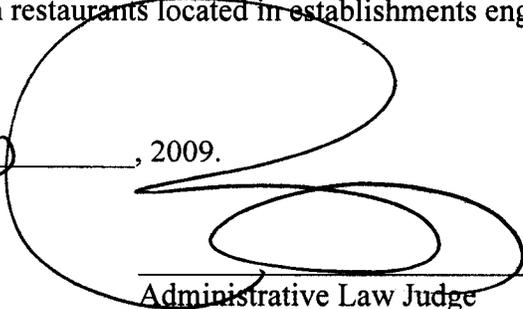
The certificate holder has waived her right to a hearing, based on the terms and conditions of this Settlement Order. The licensee further agrees to the following sanctions:

1) **Gail Shurtz shall surrender her certification on or before July 13, 2009**, and will deliver this signed Order and certification to the Gambling Commission's Communications and Legal Division, located at 4565 7th Avenue, Lacey, or will mail this certification to the Gambling Commission, Communications and Legal Division, at P.O. Box 42400, Olympia, 98504-2400. If Ms. Shurtz is unable to obtain her certification, Commission staff will request the certification from the Chehalis Tribe.

2) In the event Gail Shurtz reapplies for a gambling license or certification, she will be subject to all the Commission's investigative procedures for processing an application for a gambling license. Furthermore, no promises or assurances have been made to her that she will receive a license or certification from the Commission should he reapply.

3) Gail Shurtz shall have no involvement, directly or indirectly, whether paid or unpaid, in the operation, ownership, or financing of any business in Washington State which is applying for, or holds, a gambling license or is involved with any gambling activity, including punchboard/pull-tab activity. However, this does not prevent her from working in any capacity in any non-gambling activity, such as employment in restaurants located in establishments engaged in authorized gambling activity.

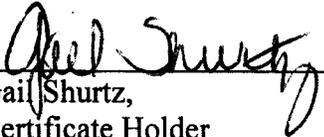
DATED this 23rd day of July, 2009.



Administrative Law Judge

APPROVED FOR ENTRY:

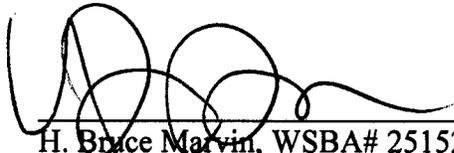
By his signature, the certificate holder acknowledges reading the Settlement Order, and understands the terms and conditions contained in it.



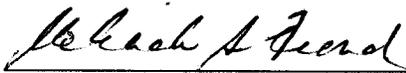
Gail Shurtz,
Certificate Holder

7/16/09
(Date)

APPROVED AS TO FORM:



H. Bruce Marvin, WSBA# 25152
Assistant Attorney General,
Representing the Washington State
Gambling Commission



Melinda Froud, WSBA# 26792
Staff Attorney
Washington State Gambling Commission