

STATE OF WASHINGTON  
GAMBLING COMMISSION

In the Matter of the Revocation of the Class III )  
Certification to Conduct Gambling Activities of: ) No. CR 2010-01465  
)  
Karl Fleming )  
Orting, Washington, ) **NOTICE OF ADMINISTRATIVE**  
) **CHARGES AND OPPORTUNITY FOR**  
Class III Employee. ) **AN ADJUDICATIVE PROCEEDING**  
\_\_\_\_\_ )

I.

The Washington State Gambling Commission issued Karl Fleming, certification<sup>1</sup> number 69-01465, authorizing Class III Employee activity with the Muckleshoot Tribe.

The certification expires on May 20, 2011, and was issued subject to the Class III employee's compliance with the Muckleshoot Tribal/State Compact and state gambling laws and rules.

II.

Rick Day, Director of the Washington State Gambling Commission, charges the Class III employee with the following violation(s) of the Washington State Gambling Act, 9.46 RCW, and WAC Title 230:

- On December 1, 2010, the Muckleshoot Tribal Gaming Commission revoked the Class III Employee's Tribal Gaming License.
- The Muckleshoot Gaming Commission determined that the Class III Employee stole \$100 from a patron's wallet that had been turned in as lost and found, committing theft by appropriating the property of another in the amount of \$100 for his personal use.
- The licensee admitted taking the money in an interview with Muckleshoot Gaming Authorities. The \$100 was returned to the cashier's cage until it could be claimed by its rightful owner.
- Under RCW 9.46.190, when Mr. Fleming took \$100 from a patron's wallet in the lost and found for his personal use, he engaged in an act, practice or course of operation that operated as fraud or deceit upon his employer, the Muckleshoot Tribe. Additionally, he pursued economic gain in an occupational manner that creates probable cause to believe that his

<sup>1</sup> 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.

participation in gambling or related activities would be inimical to the proper operation of an authorized gambling.

- Based on his actions, the Class III employee defrauded a patron in violation of RCW 9.46.190, and demonstrated that he has failed to establish by clear and convincing evidence the necessary qualifications for certification under RCW 9.46.153.
- Therefore, under Section V.C. of the Muckleshoot/State Compact, RCW 9.46.075 (1), (8), and (10), and WAC 230-03-085 (1), and (8), grounds exist to revoke Karl Fleming's certification.

**Section V.C. of the Muckleshoot/State Compact** states:

The State Gaming Agency may revoke, suspend or deny a State Certification for any reason or reasons it deems to be in the public interest...or under the provisions of RCW 9.46 or RCW 9.46.075. These reasons shall include when the certification holder: (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 created or enhances the chances of unfair or illegal practices, methods and activities being used in the conduct of gaming activities 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.

**RCW 9.46.075 Denying, suspending, or revoking an application, license or permit**

(The following subsections apply.)

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, she or it 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**

(The following subsections apply.)

We 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:

(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;

**RCW 9.46.190 Violations relating to fraud or deceit**

Any person or association or organization operating any gambling activity who or which, directly or indirectly, shall in the course of such operation:

(The following subsections apply.)

(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;

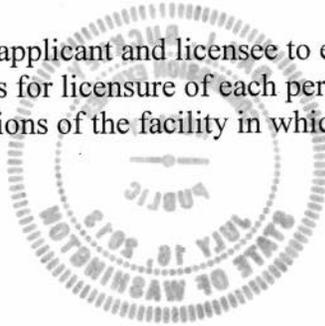
Shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.02.021.

**RCW 9.46.153 Applicants and licensees-Responsibilities and duties**

(The following subsection applies.)

(1) 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.

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STATE OF WASHINGTON  
COUNTY OF THURSTON  
I hereby certify that I have reviewed this document upon its filing to record in the proceeding by mailing a copy thereof, properly addressed with postage prepaid, by regular and certified mail to each party to the proceeding and that the same is a true and correct copy of the original.  
Date of filing: \_\_\_\_\_  
Washington State Gambling Commission  
Communications and Legal Department

III.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, WAC Title 230, and Muckleshoot/State Compact.

The licensee 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 )

Rick Day, 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 Director of the Washington State Gambling Commission, and in that capacity has executed said Notice.



*Rick Day*  
\_\_\_\_\_  
RICK DAY, DIRECTOR

SUBSCRIBED AND SWORN TO before me  
this 14<sup>th</sup> day of FEBRUARY, 2011.

*[Signature]*  
\_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington residing at POYALLUP, WA  
My commission expires on 7-16-2013

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, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 15 day of February, 2010

*Maura Pretell*  
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Communications and Legal Department  
Washington State Gambling Commission