

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the)
Certification to Conduct Gambling Activities of:) NO. CR 2010-01465
)
Karl Fleming) **FINDINGS, CONCLUSIONS,**
Orting, Washington,) **DECISION, AND FINAL**
) **ORDER IN DEFAULT**
Class III Employee.)

THE MATTER of the revocation of the license to conduct gambling activities of Karl Fleming having come before the Commission on April 14, 2011, the State being represented by Jerry Ackerman, Senior Counsel, Office of the Attorney General, 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 Karl Fleming, certification¹ number 69-025197, authorizing Class III Employee activity, formerly 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.

On February 15, 2011, Director Rick Day issued administrative charges to Karl Fleming, by certified and regular mail. The administrative charges notified Mr. Fleming that failure to respond would result in the entry of a default order revoking his certification. Mr. Fleming did not respond to the charges.

By not responding, Karl Fleming waived his right to a hearing on such charges and pursuant to RCW 34.05.440, this final order may be entered in default.

III.

- 1) On December 1, 2010, the Muckleshoot Tribal Gaming Commission revoked the Class III Employee's Tribal Gaming License.
- 2) 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.

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.

3) 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.

4) 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. Additionally, he pursued economic gain in an occupational manner that creates probable cause to believe that his participation in gambling or related activities would be inimical to the proper operation of an authorized gambling.

5) Based on his actions, the Class III employee 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 Tribal/State Compact

The State Gaming Agency² 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:

(The following subsections apply.)

(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 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:

(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 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;

² Washington State Gambling Commission, as referred to in the Muckleshoot Tribal/State Compact, Section II (U).

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, licensee, or anyone holding a substantial interest in the applicant's or licensee's business or organization: (The following subsections apply.)

(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.

IV.

CONCLUSIONS OF LAW

The circumstances specified in the Findings of Facts in section III above constitute grounds for the revocation of Karl Fleming's certification to conduct gambling activities under the authority of RCW 9.46.075 and WAC 230-03-085.

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DECISION AND ORDER

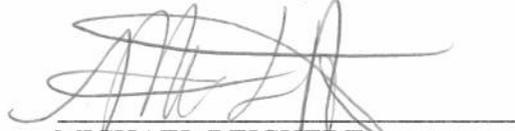
The Washington State Gambling Commission HEREBY ORDERS: Karl Fleming's Class III Employee certification to conduct gambling activities is REVOKED.

DATED this 14 day of April, 2011.



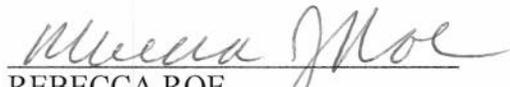
JOHN ELLIS, Chair

KEVEN ROJECKI, Vice Chair



MICHAEL REICHERT

MIKE AMOS



REBECCA ROE

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.

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

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