

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the Certification to Conduct Gambling Activities of:)
) NO. CR 2010-01409
)
Nicole K. Jim) **FINDINGS, CONCLUSIONS,**
Yakima, Washington,) **DECISION, AND FINAL**
) **ORDER IN DEFAULT**
Class III Employee.)

THE MATTER of the revocation of the certification to conduct gambling activities of Nicole K. Jim having come before the Commission on February 10, 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 Nicole K. Jim certification¹ number 69-31747, authorizing Class III Employee activity formerly with the Yakama Nation. The certification expires on August 18, 2011, and was issued subject to the Class III Employee's compliance with the Yakama Nation Tribal/State Compact, and state gambling laws and rules.

II.

On December 13, 2010, Director Rick Day issued an Order of Summary Suspension to Nicole K. Jim, by personal service. The Order of Summary Suspension notified Nicole K. Jim that failure to respond would result in the entry of a default order revoking her certification. Ms. Jim did not respond to the charges.

By not responding, Nicole K. Jim waived her right to a hearing on such charges and pursuant to RCW 34.05.440, this final order may be entered in default.

III.

SUMMARY:

On November 10, 2010, the Yakima County Prosecuting Attorney charged Nicole K. Jim with Vehicular Homicide. The criminal charge is pending and is based on the allegation that Ms. Jim drove while intoxicated on November 5, 2010, and caused another driver's death.

¹ Class III 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.

FACTS:

- 1) On November 9, 2010, a Gambling Commission Special Agent (agent) learned that Class III employee, Nicole Jim, was charged with Vehicular Assault. The agent received the information from the Licensing Supervisor with the Yakama Tribal Gaming Agency while discussing another licensing matter.
- 2) On December 6, 2010, the agent reviewed the Information, which charged Ms. Jim with Vehicular Homicide, a class A felony, of which the maximum penalty is life imprisonment and/or a \$50,000 fine. The agent also reviewed the Declaration of Probable Cause, which contained the following information:
 - a) On November 5, 2010, a Washington State Trooper (trooper) arrived at the scene of a 2-car collision, where he observed extensive damage to both cars. A white Ford Bronco, belonging to Ms. Jim, was overturned and on its top in the intersection.
 - b) The driver of the other car, a Mazda, was deceased.
 - c) The trooper contacted Ms. Jim and smelled the odor of intoxicants. Ms. Jim was covering her face with her sweater and crying. Ms. Jim answered yes, when asked whether she had been driving. Ms. Jim said she had been driving the Bronco.
 - d) When asked by the trooper whether she had any alcohol to drink, Ms. Jim replied yes, she had about three. The trooper observed Ms. Jim's eyes were bloodshot.
 - e) Ms. Jim performed voluntary field sobriety tests, after which the trooper placed her under arrest.
 - f) The trooper read Ms. Jim her rights and told her the driver of the other card was deceased. Ms. Jim waived her rights and later at the hospital, told the trooper that she had drank "Bacardi" after work at the casino. Ms. Jim added the passenger in her car that night told her to slow down for a stop sign and she slowed, but too late. Ms. Jim said she slammed on the brakes and hit the other car. She cried and said she should be the one dead, not the other guy.
- 3) Ms. Jim was booked into the Yakima County jail on November 5, 2010, and is currently awaiting trial with no planned release date.
- 4) Ms. Jim did not disclose her arrest or the criminal action filed against her.

VIOLATIONS:

Section V(C) of the Yakama Nation Tribal/State Compact provides the State Gaming Agency 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 not be limited to when an applicant or holder of certification: (The following subsection applies.)

- (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 creates or enhances the chances or unfair or illegal practices, methods and activities being used in the

conduct of the gaming activities permitted pursuant to this Compact.

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 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.
- (7) Makes a misrepresentation of, or fails to disclose, a material fact to the Commission.
- (8) Fails to prove, by clear and convincing evidence, that she 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 section (4) of this section, including any crime, whether felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude. 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.

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.
- (7) Fails to provide us with any information required under Commission rules within the time required, or, if the rule establishes no time limit, within thirty days after receiving a written request from us.
- (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 9.46.153(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.

WAC 230-06-085(1) Report criminal actions filed.

Licensees must report to us in writing within thirty days all criminal actions filed against the licensee, any manager of the licensed gambling activity, the business organization, or any person holding a substantial interest in the business organization.

Nicole K. Jim has a pending Vehicular Homicide charge for allegedly driving while under the influence and causing the death of another driver. Ms. Jim has failed to report her arrest and the criminal charges filed against her within 30 days, as required by WAC 230-06-085.

Ms. Jim has failed to establish by clear and convincing evidence, the necessary qualifications for licensure as required by RCW 9.46.153(1). Grounds exist to revoke Ms. Jim's State Certification under Section V(C) of the Yakama Nation Tribal/State Compact, RCW 9.46.075(1), (7), (8) and (9), and WAC 230-03-085(1), (7) and (8).

IV.

CONCLUSIONS OF LAW

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

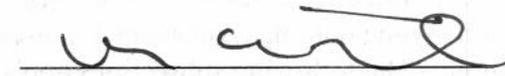
DECISION AND ORDER

The Washington State Gambling Commission HEREBY ORDERS: Nicole K. Jim's Class III certification to conduct gambling activities is REVOKED.

DATED this 10 day of February, 2011.



JOHN ELLIS, Chair



KEVEN ROJECKI, Vice Chair



MIKE AMOS

MICHAEL REICHERT

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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