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STATE OF WASHINGTON
GAMBLING COMMISSION
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GAMBLING COMMISSION
COMM & LEGAL DIVISION

In the Matter of the Revocation of the Certification)
To Conduct Gambling Activities of:)
Anita M. Smith)
Marysville, Washington,)
Class III Employee.)

NO. CR 2010-00765

SETTLEMENT ORDER

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OAH - Olympia

This Settlement Order is entered into between the Washington State Gambling Commission and the certified employee, Anita M. Smith. H. Bruce Marvin, Assistant Attorney General, and Melinda Froud, Staff Attorney, represent the Gambling Commission. Ms. Smith represents herself.

I.

The Washington State Gambling Commission issued Anita M. Smith the following certification:¹ Number 69-03515, authorizing Class III employee activity formerly with the Tulalip Tribe. The certification expires on September 9, 2010, and was issued subject to the Class III employee's compliance with state gambling laws and rules and the Tulalip Tribal-State Compact.

II.

The Director issued a Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding to the licensee on August 5, 2010. The certified employee received the Notice, and on August 27, 2010, Commission staff received Ms. Smith's request that no hearing be scheduled.

III.

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

- 1) On or about January 30, 2010, Tulalip Tribal Gaming Agents observed Anita M. Smith, while dealing blackjack, signal with her right index finger three different times, indicating to a player to surrender his blackjack hand.

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.

- 2) The following is a summary of the Surveillance Report of the January 30, 2010, incident:
- A player placed a ten dollar double bet and then received a card, which gave his hand a total of thirteen.
 - Ms. Smith made a “surrender” signal by scrapping her finger left to right in front of her chip tray three times.
 - The player then made the same “surrender” motion, and Ms. Smith pushed back the ten dollar double bet to the player.
 - The hand played out and the player’s hand lost.
 - If the player had not had his ten dollar double bet returned to him, the player would have lost twenty dollars instead of ten.
- 3) Ms. Smith’s actions constitute “Cheating” under RCW 9.46.196(3) because she engaged in an act, practice, or course of operation while participating in a gambling activity with the intent of cheating any other participant or the operator to gain an advantage in the game over the other participant or operator.
- 4) On January 30, 2010, when questioned about the finger gestures, Ms. Smith told Tulalip Tribal Gaming Agents that she was not providing assistance to players, but instead joking and playing around with the players.
- 5) The Tulalip Tribal Gaming Agency determined that Anita M. Smith, while dealing blackjack, made hand signals to players in an effort to help players win hands of blackjack. As a result, on February 16, 2010, Anita M. Smith’s Tulalip Tribal Gaming License was revoked.
- 6) Because of her actions on January 30, 2010, and the revocation of her Tribal Gaming License, Ms. Smith 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, and she has failed prove, by clear and convincing evidence, that she is qualified for certification, in violation of RCW 9.46.153(1).
- 7) Therefore, grounds exist to revoke Anita M. Smith’s Class III Employee certification under the Tulip Tribal/State Compact (5)(c), RCW 9.46.075(1) and (8), and WAC 230-03-085(1) and (8).

Tulalip Tribal/State Compact 5(c) states the State Gaming Agency² may revoke a State certification for any reason or reasons it deems to be in the public interest. These reasons shall include, but not be limited to, cases when a holder of a certification:

(The following subsections apply.)

- (i) Has violated, failed or refused to comply with the provision, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the State Gaming Agency pursuant thereto, or any provision of a Tribal/State Compact, or when a violation of any provision of chapter 9.46 RCW, or any State Gaming

² Section 2(p) of the Tulalip Tribal/State Compact defines “State Gaming Agency” as the Washington State Gambling Commission.

Agency rule, or any provision of a Tribal/State Compact has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control.

(vi) Fails to prove, by clear and convincing evidence, that she is qualified in accordance with the provisions of this Section.

(viii) Has had a Tribal license revoked in the preceding twelve months.

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, licensee, permit holder, 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.

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, permit holder, 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.

(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 9.46.196(3) Cheating — Defined.

"Cheating," as used in this chapter, means to engage in any act, practice, or course of operation while participating in a gambling activity with the intent of cheating any other participant or the operator to gain an advantage in the game over the other participant or operator.

RCW 9.46.1961 Cheating in the first degree.

(1) A person is guilty of cheating in the first degree if he or she engages in cheating and:

(a) Knowingly causes, aids, abets, or conspires with another to engage in cheating; or

(b) Holds a license or similar permit issued by the state of Washington to conduct, manage, or act as an employee in an authorized gambling activity.

(2) Cheating in the first degree is a class C felony subject to the penalty set forth in RCW 9A.20.021. In addition to any other penalties imposed by law for a conviction of a violation of this section the court may impose an additional penalty of up to twenty thousand dollars.

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.

IV.

Ms. Smith has waived her right to a hearing based on the terms and conditions of this Settlement Order and further agrees to the following:

1) Anita M. Smith's certification expired on September 9, 2010, and she agrees to not reapply for a Class III certification. **The signed Settlement Order and Ms. Smith's certification must be received by Commission staff on or before October 4, 2010**, and mailed to Commission Headquarters at the following address:

Washington State Gambling Commission
Attention: Communications and Legal Division
P.O. Box 42400
Olympia, WA 98504-2400

Or delivered (in person or via private courier) to the following address:

Washington State Gambling Commission
4565 7th Avenue SE; Fourth Floor
Attention: Communications and Legal Division Lacey, WA 98503

2) In the future if Ms. Smith applies for a certification or gambling license, 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 Ms. Smith that she will receive a certification or license from the Commission should she apply.

3) Ms. Smith 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 permit or is involved with any gambling activity, including punchboard/pull-tab activity. However, this does not prevent Ms. Smith from working in any non-gambling activity, such as employment in restaurants located in establishments engaged in authorized gambling activity.

DATED this 9TH day of NOVEMBER, 2010.



Administrative Law Judge

CHARLES BRYANT

2010-00765

By her signature, the certified employee understands and accepts the terms and conditions of this Order

APPROVED FOR ENTRY:

 10-8-10

Anita M. Smith, (Date)
Certified Employee

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

