STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the Certification to Conduct Gambling Activities of:	)	NO. CR 2011-01021
Troy Swinton Lynnwood, Washington,	)	**FINDINGS, CONCLUSIONS, DECISION, AND FINAL ORDER IN DEFAULT**
Class III Employee.	)	

THE MATTER of the revocation of the certification to conduct gambling activities of Troy Swinton having come before the Commission on January 12, 2012, 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 Troy Swinton certification[1] number 69-14439, authorizing Class III employee activity, formerly with the Tulalip Tribe. This certification expires on June 19, 2012, and was issued subject to the certified employee's compliance with state gambling laws and regulations.

II.

On November 22, 2011, Director Rick Day issued administrative charges to Troy Swinton by certified and regular mail. The administrative charges notified Mr. Swinton that failure to respond would result in the entry of a default order revoking his certification. Mr. Swinton did not respond to the charges.

By not responding, Troy Swinton 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) A Commission Special Agent (agent) was assigned Troy Swinton's file to investigate whether he continues to qualify for certification after having his tribal license revoked. In the context of the investigation, the agent received a copy of Incident Reports from the Tulalip Tribal Gaming Agency (TTGA).

[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.

The reports documented the TTGA's investigation into Mr. Swinton's theft of Tribal Lottery System[2] (TLS) tickets.

2) Mr. Swinton worked as a TLS technician, and his duties included testing and repairing the machines. The TLS technician is allowed to check out TLS tickets from the cashier cage to be used for official testing. The unused portion of the ticket should be returned to the cage when the testing is completed. When a technician requests a ticket for testing, the cashier creates a ticket that has a unique serial number. The serial number can be traced using the machine servers.

3) Based on their investigation, the TTGA determined that Mr. Swinton, while working as a TLS technician, committed theft of $1,072.97. He requested large $500 denominations of TLS tickets to test machines, and instead of returning the unused portions of the tickets to the cage as required, Mr. Swinton cashed out at a Ticket Exchange (TX) machine. The TX machine allows a guest to insert a TLS ticket and receive its value in cash back. Mr. Swinton's activities were evidenced by tracing the serial numbers on the tickets cashed out. Use of the TX machine is outside the scope of responsibility of a TLS technician.

4) As a result, Mr. Swinton obtained over $1,000 in cash which was not due to him. Mr. Swinton admitted to investigators that he knew it was proper to return his unused tickets.

5) A TTGA audit revealed that after Mr. Swinton and his work partner worked on a testing project, his partner handed Mr. Swinton a ticket valued at $544, which was later cashed in by an unidentified male. A second large denomination ticket checked out to Mr. Swinton was also later cashed out.

6) When questioned by the TTGA, Mr. Swinton denied taking test tickets and instead alleged that he gave the tickets to others to return for him. TTGA has no records of the tickets at issue being returned at any time by anyone. Tickets attributed to Mr. Swinton were instead cashed out by an unidentified male.

7) Mr. Swinton's partner admitted in a related case to checking out tickets and having his wife cash them out at TX machines. That same technician also admitted that he had "taken over $10,000 in tickets home and had his wife cash them." That same partner reported that "several other Slot Technicians were stealing," but he refused to name them. He also stated that "most" of the techs have stolen tickets.

8) On June 20, 2011, the Tulalip Gaming Commission suspended Mr. Swinton's Tribal Gaming license, pending revocation. Mr. Swinton did not file an appeal, and his tribal license revocation became final on July 7, 2011.

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[2] Tribal Lottery System (TLS) or Video Gaming Terminal machines: The TLS/VGT machines are a cashless computerized gaming system that allows players to convert cash into game play credits which are printed on tickets and then inserted into a bill receptor on Player Terminal (PT) machines. The credits are added to the machine and used to play the game.

9) Based on his actions, Mr. Swinton defrauded the Tulalip Resort Casino, in violation of RCW 9.46.190. he also poses a threat to the effective regulation of gaming and enhances the chance of unfair illegal practices, and has failed to establish by clear and convincing evidence the necessary qualifications for certification under RCW 9.46.153(1).

10) Therefore, under Section 5(c) of the Tulalip Tribe/State Compact, RCW 9.46.075(1), (2), (8), (10) and (11), and WAC 230-03-085(1) and (8), grounds exist to revoke Troy Swinton's certification.

Section 5(c) of the Tulalip Tribe/State Compact
The State Gaming Agency[3] may revoke, suspend or deny 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:
(The following subsections apply.)

(i) 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 State Gaming Agency pursuant thereof, or any provision of a Tribal-State Compact;

(ii) Knowingly causes, aids, abets or conspires with another to cause, any person to violate any of the laws of this State or the rules of the State Gaming Agency, or the provisions of a Tribal-State Compact.

(vi) Fails to prove, by clear and convincing evidence, that he is qualified in accordance to the provisions of this section;

(vii) Has had a Tribal license revoked or denied in the proceeding twelve months;

(x) Has pursued economic gain in an occupational manner or context which is in violation of the criminal laws of this state if such pursuit creates the probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of authorized gambling or related activity in this state. For the purposed of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain;

(xi) Is a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates probable cause to believe that the association is of such a nature as to be inimical to the proper operation of the authorized gambling or related activities in this state. For the purpose of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain utilizing such methods as are deemed criminal violations of the public policy of this state.

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[3] Washington State Gambling Commission, as referred to in the Tulalip Tribal/State Compact, Section 2 (p).

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;

(2) Knowingly causes, aids, abets, or conspires with another to cause, any person to violate any of the laws of this state or the rules of the commission;

(8) Fails to prove, by clear and convincing evidence, that he, 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;

(11) Is a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates probable cause to believe that the association is of such a nature as to be inimical to the policy of this chapter or to the proper operation of the authorized gambling or related activities in this state.
For the purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain utilizing such methods as are deemed criminal violations of the public policy of this state. A career offender cartel shall be defined as any group of persons who operate together as career offenders.

For the purpose of reviewing any application for a license and for considering the denial, suspension or revocation of any license the gambling commission may consider any prior criminal conduct of the applicant or licensee and the provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to such cases.

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.

(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:

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

(2) Make any untrue statement of a material fact, or omit to state a material fact necessary in order to make the statement made not misleading, in the light of the circumstances under which said statement is made; 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.

RCW 9.46.153(1) Applicants, licensees-Responsibilities, and duties-Waiver of liability-Investigation statement as privileged.
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 Troy Swinton's certification to conduct gambling activities under the authority of the Tulalip Tribe/State Compact RCW 9.46.075 and WAC 230-03-085.

DECISION AND ORDER

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

DATED this 12 day of January, 2012.

JOHN ELLIS, Chair

MIKE AMOS, Vice Chair

KEVEN ROJECKI

MICHAEL REICHERT

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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