STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the License to Conduct Gambling Activities of:	)	NO. CR 2012-00965
Erin A. Combs Kennewick, Washington,	)	**FINDINGS, CONCLUSIONS, DECISION, AND FINAL ORDER IN DEFAULT**
Licensee.	)	

THE MATTER of the revocation of the license to conduct gambling activities of Erin A. Combs having come before the Commission on October 11, 2012, 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 Erin A. Combs the following license:

Number 68-31332, authorizing Card Room Employee activity with Coyote Bob's Casino in Kennewick.

The license expires on July 11, 2013, and was issued subject to Erin A. Combs' compliance with state gambling laws and rules.

II.

On August 27, 2012, Director Rick Day issued administrative charges to Erin A. Combs, by certified and regular mail. Ms. Combs did not respond to the charges and waived her right to a hearing and pursuant to RCW 34.05.44, this final order entered in default.

III.

FACTS:

1) Ms. Combs was licensed on July 12, 2012. On July 19, 2012, a Washington State Gambling Commission Special Agent (agent) was assigned Erin A. Combs' file to determine whether she is qualified for a license based on criminal history that was not disclosed on the application. During the review of Ms. Combs' licensing file, the agent found that Ms. Combs failed to truthfully disclose her criminal history on her application.

2) On her application, Ms. Combs indicated that she has criminal history and she disclosed the following:

- Speeding, Cle Elum, fined, February;
- Driving while Suspended 3rd Degree, Cle Elum, fined, February-Dismissed;

- Speeding, Benton County, fined, February; and
- Speeding, Kennewick, fined, February & March.

The application states that applicants are required to disclose charges even if the charges were dismissed.

3) Each applicant is run through the Judicial Information System (JIS), a Washington State Court System that keeps record of court actions occurring in Municipal, District, and Superior Courts. Because Ms. Combs' criminal history was not handled within the Washington State Court System, no disqualifying criminal history was found initially. As a result, her license was issued.

4) During the post-licensing investigation, the agent discovered Ms. Combs had failed to disclose her out-of-state criminal history. Specifically, in California, Ms. Combs pled nolo contendere, or no contest, to two misdemeanor counts of Unlawful Sexual Intercourse with a minor. Ms. Combs was approximately 33 years old when the crimes occurred. One of her victims was 15 years old at the time and the other one was described as a "minor" in the court documents.

5) As part as the investigation, the agent called and spoke with Ms. Combs and asked her about her criminal history from California. Ms. Combs explained that her charges stemmed from an incident in which she posed topless in some pictures. She stated there were other people in the pictures, and one turned out to be a 17 year old male. She explained that she didn't disclose the charges on her application because her attorney told her they were expunged off her record so she did not have to disclose them. Per the agent's request, Ms. Combs provided a faxed copy of the Change of Plea and Dismissal document.

6) The agent obtained certified court documents pertaining to Ms. Combs' case from the Superior Court of California, County of Solano. The following is a summary of the documents:

a) On February 03, 2004, a Felony Complaint was filed in the Superior Court of California, County of Solano, against Ms. Combs, who at the time was using the name Ms. Sanders.

b) On February 20, 2004, an Information was filed, charging Ms. Combs with a total of nine felony counts and one misdemeanor count including: Lewd Act upon a Child, Oral Copulation of a Person under 16, Unlawful Sexual Intercourse, Child Molesting and Contributing to the Delinquency of a Minor. All incidents for the charges occurred between November 13, 2003, and January 24, 2004.

c) On July 8, 2005, a Criminal Minute Order was filed. The document states the court granted the District Attorney's Motion to Amend count 8 and to add count 11, charging California Penal Code Section 261.5 (c)[1] and (d)[2]. Count 8 was amended to read, "On or about November 01, 2003, defendant...did commit a

[1] Section 261.5 (c) states any person who engages in an act of unlawful sexual intercourse with a minor who is more than three years younger than the perpetrator is guilty of either a misdemeanor or a felony.
[2] Section 261.5 (d) states any person over 21 years of age or older who engages in an act of unlawful sexual intercourse with a minor who is under 16 years of age is guilty of either a misdemeanor or a felony.

misdemeanor namely Unlawful Sexual Intercourse, a violation of Section 264.5 (c)…in that said defendant engaged in an act of unlawful sexual intercourse with K.R. and C.C. minor, not the spouse of the defendant, the minor being more than three years younger than the defendant." The document also states that Ms. Combs was found guilty based on her "Nolo Plea" to counts 8 and 11 and that the court dismissed the remaining counts. The document showed that Ms. Combs was scheduled for a Judgment and Sentence hearing on September 13, 2005.

d) On September 13, 2005, an Order of Probation was filed. The document states that Ms. Combs had been convicted of misdemeanors 261.5 (c) and (d). Ms. Combs was sentenced to three years of formal probation and 364 days in county jail with credit for 24 days. She was determined not eligible for good time/work conduct and ordered to not be in the presence of any person under the age of 18 without a responsible adult present as approved by the probation officer. She was ordered to attend sex offender counseling, and have no contact with the two victims. However, it was noted that she "may live in Washington if interstate compact approved and set up by probation." The following additional terms were placed on Ms. Combs' during sentencing:

- Not possess pornographic material unless approved in advanced by therapist and/or probation officer;
- Not access or subscribe to any computer Internet service or local bulletin board service which provides access to or markets pornographic imagery unless approved in writing by therapist and/or probation office;
- Submit to any program of psychological assessment;
- Have no contact of any kind (correspondence, telephone, e-mail, or other communication, direct or through a third party) with the victims of the offenses unless approved in advance and in writing by the probation officer after consultation with the therapist. This includes not entering the premises, traveling past or loitering near where the victim resides, works, or attends school;
- Not being in the presence of or attempting to contact by any method, any person under the age of 18 without approval in advance and in writing by the probation offer after consultation with the therapist. This includes going to or loitering near areas frequented by children including, but not limited to parks, playgrounds, and arcades. This also includes residing with any person under the age of 18, not including her own children;
- Not date or socialize with anyone who has children under the age of 18 unless approved in advanced and in writing by the probation officer after consultation with the therapist;
- Not knowingly engage in any real-time communication over the internet with anyone who claims to be a minor or anyone she knows to be a minor;
- Not knowingly engage in any communication over the internet with anyone under 18 years old engaging in sexual conduct; and
- Not be in charge of, instruct, or mentor underage children in a setting except her own children.

7) On January 12, 2008, a Criminal Minute Order was filed, which in the states the petition for "1203.4 is granted, $240.00 fee imposed" and that the case was dismissed. California Penal Code 1203.4 allows a court to withdraw a plea of guilty or nolo contendere and enter a plea of not guilty upon fulfillment of probation. However, it also states "the probationer shall be informed that the order does not relieve him or her of the obligation to disclose the conviction in response to any direct question contained in any questionnaire to application for public office for licensure by any state or local agency, or for contracting with the California State Lottery Commission."

8) On January 9, 2009, a Change of Plea and Dismissal was filed which shows Ms. Combs' plea of nolo contendere was set aside and that the court dismissed the complaint pursuant to 1203.4. The document further states, "this order shall not relieve any person of the obligation to disclose the conviction in response to any direct question contained in any questionnaire to application for public office, for licensure by any state or local agency, or for contracting with the California State Lottery Commission. Dismissal of an accusation or information pursuant to Penal Code 1203.4 does not permit a person to own, possess, or have under his or her custody or control any firearm capable of being concealed upon the person…"

9) The court also provided the agent with an uncertified copy of their Case/Party Account History that shows Ms. Combs still has an outstanding court balance in this case for $240.00.

VIOLATIONS:

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.
(3) Has obtained a license or permit by fraud, misrepresentation, concealment, or through inadvertence or mistake.
(4) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude.
(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.

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.
(2) Has been convicted of or pleaded guilty to a misdemeanor or felony crime involving physical harm to individuals. "Physical harm to individuals" includes any form of criminal assault, any crime involving a threat of physical harm against another person, or any crime involving an intention to inflict physical harm on another person.
(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 9.46.170 False or misleading entries or statements, refusal to produce records.
Whoever, in any application for a license or in any book or record required to be maintained by the commission or in any report required to be submitted to the commission, shall make any false or misleading statement, or make any false or misleading entry or willfully fail to maintain or make any entry required to be maintained or made, or who willfully refuses to produce for inspection by the commission, or its designee, any book, record, or document required to be maintained or made by federal or state law, shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021.

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.

The licensee's criminal history and her failure to disclose it establish that she poses a threat to the effective regulation of gaming. The licensee has also failed to establish by clear and convincing evidence the necessary qualifications for licensure under RCW 9.46.153(1).

Therefore, under, RCW 9.46.075(1), (3), (4), (7) and (8), WAC 230-03-085(1), (2), and (8), and RCW 9.46.170 grounds exist to revoke Erin A. Combs' license.

IV.

CONCLUSIONS OF LAW

The circumstances specified in the Findings of Facts in section III above constitute grounds for the revocation of Erin A. Combs' license to conduct gambling activities under the authority of RCW 9.46.075 and WAC 230-03-085.

DECISION AND ORDER

The Washington State Gambling Commission HEREBY ORDERS: Erin A. Combs' license to conduct gambling activities is REVOKED.

DATED this 11th day of October, 2012.

JOHN ELLIS, Chair

MIKE AMOS, Vice Chair

MICHAEL REICHERT

KELSEY GRAY

MARGARITA PRENTICE

PRESENTED BY:

Amy B. Hunter, WSBA# 23773
Administrator, Communications and Legal Division
Washington State Gambling Commission

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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