

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension or Revocation of the
Certification to Conduct Gambling Activities of:)
)
Penelope T. Otto)
Auburn, Washington,)
)
Class III Employee.)

NO. CR 2013-00662

**NOTICE OF ADMINISTRATIVE
CHARGES AND OPPORTUNITY
FOR AN ADJUDICATIVE
PROCEEDING**

I.

The Washington State Gambling Commission issued Penelope T. Otto the following certification:¹

Number 69-13046, authorizing Class III Employee activity at the Muckleshoot Casino.

The certification expires on April 16, 2014, and was issued subject to the Class III employee's compliance with state gambling laws and rules and the Muckleshoot Tribal/State Compact.

II.

David Trujillo, Interim Director of the Washington State Gambling Commission, charges the Class III employee with the following violations of the Washington State Gambling Act, 9.46 RCW, WAC Title 230, and the Muckleshoot Tribal/State Compact:

SUMMARY:

Penelope T. Otto owes \$4,615 in court-ordered fines and fees associated with criminal and traffic related offenses, which have been sent to collections due to nonpayment. Because of her fines and fees in collections, there are six Failures to Appear (FTA's) on her record.²

FACTS:

- 1) The following is a breakdown of Ms. Otto's history, including the dollar amount owed in collections, if any:
 - 9/10/2011 – DWLS 3rd Degree and Refuse to Comply with Police, \$1,225 in collections.
 - 12/8/2009 – Operate Motor Vehicle without Insurance (No Insurance), \$602 in collections.

¹ The Commission issues Class III Certifications to employees working at Tribal casinos. Certifications allow similar activities as Card Room Employee (CRE) licenses issued to persons working at commercial house-banked card rooms. Class III employees may transfer their certifications to a CRE license and work at commercial card rooms by sending Commission staff a transfer form and the accompanying fee.

² Courts issue a Failure to Appear or a Failure to Remit when a respondent fails to make payment on a court-ordered obligations; both notices have the same meaning.

- 1/4/2009 – Fail to Drive on Right Side of Road, No Valid Operator’s License (NVOL), and No Insurance, \$1,327 in collections.
 - 8/25/2008 – NVOL, \$682 in collections.
 - 8/3/2008 – DWLS 3rd Degree, \$593 in collections.
 - 11/2/2007 - DWLS 3rd Degree.
 - 7/6/2007 – Speeding 25 Over and No Insurance.
- 2) On March 25, 2013, a Commission Special Agent (agent) was assigned to Ms. Otto’s file to investigate her qualification for continued certification in light of her outstanding court-ordered fines and fees. Ms Otto has been certified since 2001 to work at the Muckleshoot Casino.
- 3) Ms. Otto has known that the Gambling Commission was concerned with her pattern of willful disregard to court orders since 2011. Ms. Otto made a significant payment of \$1,000 towards her debt. However, her overall amount owed increased in 2012 and remained the same in 2013.
- On March 9, 2011, an agent sent Marena Cross, Muckleshoot Tribal Gaming Agency License Manager, a letter regarding Ms. Otto’s fines and fees in collections. At the time, Ms. Otto owed \$4,045 in court-ordered fines and fees and there were six FTAs on her record.
 - On March 28, 2011, the agent received a copy of a letter that Ms. Cross gave to Ms. Otto regarding her fines and fees owed, which, stated in part “... you must take immediate action to resolve these issues...”
 - On May 9, 2011, the agent received a fax from Ms. Cross with information about a payment that Ms. Otto had made. Along with the fax was a receipt from NCO Financial Systems showing that Ms. Otto had paid \$1,000 towards the 2007 traffic violation, Speeding 25 Over and No Insurance.
 - On March 9, 2012, an agent sent another letter to Marena Cross regarding Ms. Otto’s fines and fees in collections, stating that despite the certified employee making two payments in May of 2011 totaling \$1,038.70, the overall amount in collections increased to \$4,615.
 - Ms. Otto has not made any other payments since that time.
- 4) On April 1, 2013, the agent contacted Ms. Cross to let her know that Ms. Otto had not made any payments and that he agent was recommending revocation of Ms. Otto’s certification.

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VIOLATIONS:

1) Muckleshoot Tribal/State Compact

Section V. C. of the Tribal-State Compact for Class III Gaming between the Muckleshoot Tribe and the State of Washington provides that State Gaming Agency³ may revoke a State certification under the provisions of RCW 9.46.075, and the rules promulgated there under, for any reason it deems to be in the public interest. These reasons shall include when the certification holder:

V.C. (3) has demonstrated a willful disregard for compliance with gaming regulatory authority in any jurisdictions.

2) 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) 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.

(3) Has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level.

(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.

Ms. Otto has demonstrated willful disregard for court orders by failing to make her court-ordered payments, resulting in six Failures to Appear. Therefore, under Muckleshoot Tribal/State Compact V.C. (3), RCW 9.46.075(1), and WAC 230-03-085(1), (3), and (8), grounds exist to suspend or revoke Ms. Otto's certification.

³ Washington State Gambling Commission, as referred to in Section V. C. of the Tribal-State Compact for Class III Gaming between the Muckleshoot Tribe.

III.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, WAC Title 230 and the Muckleshoot Tribal/State Compact.

The Class III employee will have the opportunity to have a hearing on the alleged violations.

In order to have a hearing or discuss settlement options, the enclosed request for hearing must be completed and returned to the Gambling Commission **within 23 days** from the date of the mailing of this notice.

Based on RCW 34.05.440, failure to return a request for hearing will result in the entry of a default order REVOKING your certification.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

David Trujillo, being duly sworn on oath, says: That he has read this Notice of Administrative Charges and Opportunity for An Adjudicative Proceeding, knows the contents of it, believes it to be true, that he is the Interim Director of the Washington State Gambling Commission, and in that capacity has executed said Notice.

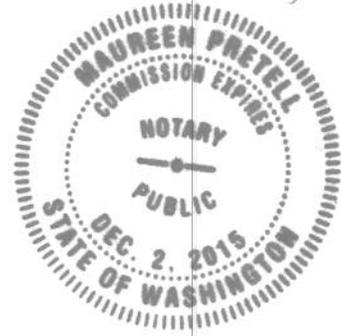
David Trujillo
David Trujillo, Interim Director

SUBSCRIBED AND SWORN TO before me
this 10 day of May, 2013.

Maureen Pretell
NOTARY PUBLIC in and for the State of

Washington residing at Thurston County

My commission expires on December 2, 2015



STATE OF WASHINGTON)
)
COUNTY OF THURSTON)

I certify I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy, property addressed with postage prepaid, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 14 day of May, 2013

Penelope T. Otto
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