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STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE GAMBLING COMMISSIONGAMBLING COMMISSION
COMM & LEGAL DIVISION

In the Matter of the Revocation of the
License to Conduct Gambling
Activities of:

MELISSA A. CURRY
Tacoma, Washington,

Licensee.

OAH No. 2012-GMB-0034
GC No. CR 2012-00396

INITIAL ORDER REVOKING
GAMBLING LICENSE

Administrative Law Judge John M. Gray conducted an administrative hearing in this matter on July 24, 2012, at the Gambling Commission Office, 4565 7th Avenue, Lacey, Washington.

Stephanie U. Happold, Assistant Attorney General, appeared and represented the Washington State Gambling Commission ("Commission"). Julie Sullivan, Special Agent with the Commission, appeared as witness for the Commission. The Commission offered 20 exhibits, which were admitted without objection.

Melissa Curry, the Licensee, appeared and represented herself. Ms. Curry offered no exhibits.

On April 19, 2012, the Director of the Commission caused a Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding ("Notice of Administrative Charges") to be issued against Ms. Curry. The Director alleged that Ms. Curry's pattern of criminal history, including failures to appear and failures to remit payment of court ordered fines, fees, and obligations, and the dollar amount of the fines and fees in collection, poses a threat to the effective

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regulation of gaming and enhances the change of unfair or illegal practices, methods or activities of the gaming activity due to the final pressure facing her. Therefore, the Commission seeks to revoke Ms. Curry's gambling license.

The Commission served the Notice of Administrative Charges on Ms. Curry. The record is silent regarding the method and date of service on Ms. Curry, but she filed his request for an administrative hearing on May 9, 2012.

The Commission issued the Notice of Hearing on June 13, 2012, setting this matter for hearing on July 24 at 1:00 PM.

The Administrative Law Judge, having considered the evidence, now enters the following Findings of Fact:

FINDINGS OF FACT

1. Ms. Curry is an individual who possesses a card room employee license ("CRE"), License No. 68-19871, type 68, class B, issued by the Commission on March 6, 2012. The license allowed her to work at the Great American Casino in Lakewood, Washington. She no longer works at the Great American Casino. Without more, that license will expire on March 6 2013.

2. Ms. Curry first applied for and received a class III certification in 2002 to work at the Muckleshoot Casino. In 2004, she transferred to the Great American Casino in Lakewood and maintained her license there until her job ended.

3. On March 20, 2012, the Commission assigned Special Agent Julie Sullivan to investigate whether Ms. Curry continues to qualify for certification based on her criminal history. Special Agent Sullivan has ten years of

experience with the Commission. She has completed all of the training assigned to her, including programs offered by the Washington State Criminal Justice Training Commission. She is a nationally certified fraud examiner. She is also a criminal justice major at Washington State University. She works in the Commission's Criminal History Investigation Unit.

4. Special Agent Sullivan found the following criminal record for Ms. Curry. She conducted a search using the Judicial Information System ("JIS").

5. On September 26, 2003, a law enforcement officer ("LEO") charged Ms. Curry with driving without a seat belt (RCW 46.61.688(3)) and operating a motor vehicle without proof of insurance (RCW 46.30.020). A case was filed against Ms. Curry in Milton Municipal Court, case number I00014433. The record shows a finding of committed to both charges on January 12, 2004. The record also shows that Ms. Curry either failed to appear or failed to remit payment. The Court assessed fines and fees of \$252. Ms. Curry failed to abide by a time pay agreement and still owes \$252. The collection agent is AllianceOne Receivables. The amount remains unpaid as of July 24, 2012. Exhibits 4, 19, and 20.

6. On January 14, 2004, a LEO charged Ms. Curry with operating a motor vehicle without proof of insurance (RCW 46.30.020). A case was filed in Puyallup Municipal Court, case number I00064676. The record shows a finding of committed to this charge on February 5, 2004. The record also shows that Ms. Curry either failed to appear or failed to remit payment. The Court assessed

finest and fees of \$590. The collection agent is Puget Sound Collection. The amount remains unpaid as of July 24, 2012. Exhibits 4, 17, and 18.

7. On October 18, 2006, a LEO charged Ms. Curry with speeding 6 miles per hour over the speed limit and operating a motor vehicle without proof of insurance (RCW 46.30.020). A case was filed in Pierce County District Court, case number 6Y4980849. The record shows findings of committed to both charges on January 11, 2007. The record also shows that Ms. Curry either failed to appear or failed to remit payment. The Court assessed fines and fees of \$691. The collection agent is OSI Collections. The amount remains unpaid as of July 24, 2012. Exhibits 4, 15, and 16.

8. On April 14, 2009, a LEO charged Ms. Curry with speeding 16 miles per hour over the speed limit (RCW 46., operating a motor vehicle without proof of insurance (RCW 46.30.020), and driving while license suspended in the third degree (RCW 46.20.342). These offenses resulted in two different case filings and docket numbers. Exhibit 4.

9. With reference to the non-criminal offenses described in Finding of Fact No. 8, a case was filed in Des Moines Municipal Court, case number 101067801. The record shows findings of committed to both charges on August 6, 2009. The record also shows that Ms. Curry either failed to appear or failed to remit payment. The Court assessed fines and fees of \$849, lowered by \$672, for a balance due of \$177. The collection agent is AllianceOne Receivables. The amount remains unpaid as of July 24, 2012. Exhibits 4, 11, and 12.

10. With reference to the criminal offense described in Finding of Fact No. 8, a case was filed in Des Moines Municipal Court, case number C00020994. The record shows a finding of guilty to the charge on April 28, 2010. Ms. Curry failed to appear multiple times on this charge. The record shows that she failed to appear on August 6, 2009, and the court issued a bench warrant for her arrest. The matter was reset for September 23, 2009, and Ms. Curry appeared at that time, when the Court rescheduled the matter to December 3, 2009. Ms. Curry failed to appear as ordered on December 3, 2009, her bail bond was forfeited, and the Court issued another bench warrant for her arrest. On December 9, 2009, Ms. Curry appeared at the Court Clerk's Office and paid \$100 toward her eventual fine. The Court recalled the bench warrant when Ms. Curry and her attorney appeared in court on December 16, 2009, and the case was again continued to another date, this time January 10, 2010. On January 10, 2010, a waiver of speedy trial was filed and the hearing was set for February 24, 2010. On February 24, 2010, Ms. Curry and her attorney appeared and asked for a continuance. The Court continued the case to April 28, 2010, at which time Ms. Curry entered a plea of guilty. Ms. Curry agreed to a time payment plan on a fine of \$450. On August 31, 2010, the Court changed the accounts receivable from \$450 to \$377.50 and removed the case from the time payment plan. The collection agent is AllianceOne Receivables. The amount remains unpaid as of July 24, 2010. Exhibits 4, 13, and 14.

11. On August 23, 2009, a LEO charged Ms. Curry with three driving violations, two of which were reckless driving (RCW 46.61.500) and driving while

license suspended in the third degree (RCW 46.20.342). A case was filed in Sumner Municipal Court, case number C00022677. The record shows a judgment of guilty to the reckless driving charge on February 17, 2010. Ms. Curry pleaded guilty to "charge 3," but the record is unclear as to what violation constituted charge 3. The third charge was dismissed. The record also shows that Ms. Curry either failed to appear or failed to remit payment, and bench warrants were issued in the course of the Sumner case. The Court assessed fines and fees of \$5,000 on charge 3. The Court reduced the fine from \$5,000 to \$1,031.30, then increased it to \$1,131.30 on June 2, 2010. Ms. Curry entered into, and subsequently breached, a time payment plan in the amount of \$1,131.30. On April 7, 2010, she made one payment of \$50. The collection agent is OSI Collections. The amount of \$1,133 remains unpaid as of July 24, 2012. Exhibits 4, 9, and 10.

12. On October 5, 2019, a LEO charged Ms. Curry with driving while license suspended in the third degree (RCW 46.20.342). The record shows that Ms. Curry either failed to appear or failed to remit payment, and bench warrants were issued. The record also shows that Ms. Curry pleaded guilty on December 20, 2010. The Court ordered fines and fees of \$1,000. The Court changed the amount of the fine on March 21, 2011, reducing the amount to \$373. Ms. Curry agreed to, and subsequently breached, a time payment plan. The collection agent is AllianceOne Receivables. The amount remains unpaid as of July 24, 2012. Exhibits 4, 7, and 8.

13. The total amount of fines and fees unpaid by Ms. Curry is \$3,593.50 as of July 24, 2012. Exhibit 1, page 6; Exhibit 4.

14. On March 22, 2012, Special Agent Sullivan wrote to Ms. Curry informing her that she investigated her and of the Commission's concern that "since you have failed to comply with a judge's rulings, you may not comply with internal control requirements or adhere to the direction of the Washington State Gambling Commission." She concluded by informing her that she would prepare a case report in anticipation of a Commission decision to revoke her gambling license. Exhibit 5.

15. Also on March 22, 2012, Special Agent Sullivan wrote to Greg Bakamis of the Great American Casino, informing him of substantially the same information she provided to Ms. Curry. Exhibit 6.

16. Special Agent Sullivan wrote Commission Case Report number 2012-00396 and submitted it on March 22, 2012. She recommended that the Commission revoke Ms. Curry's gambling license because "she poses a threat to the effective regulation of gaming as demonstrated through her prior activities, criminal record and habitual unwillingness and willful disregard to comply with court orders." Exhibit 1.

17. Ms. Curry worked in the Great American Casino until sometime in late June 2012. She worked there part-time for eight years, and full time from a date in 2011 until she lost her job there. She worked as a dealer. She is in drug and alcohol treatment that requires payments of \$410 per month. She has one son. She was buying a house, but could no longer afford it.

CONCLUSIONS OF LAW

1. The undersigned Administrative Law Judge has jurisdiction to hear and initially decide this matter in an adjudicative proceeding. RCW 34.05.485(1)(c), 34.12.030(1), 9.46.095 and WAC 230-17-025.

2. Ms. Curry holds a public card room employee license and is subject to RCW 9.46.075 and WAC 230-03-085.

3. The Commission has the broad purpose of protecting the public by insuring that those activities authorized by chapter 9.46 RCW do not maliciously affect the public and do not breach the peace. RCW 9.46.010.

4. The public policy of the state of Washington on gambling is to keep the criminal element out of gambling and to promote the social welfare of the people by limiting the nature and scope of gambling activities and by strict regulation and control. All factors incident to the activities authorized in chapter 9.46 RCW shall be closely controlled, and the provisions of this chapter shall be liberally construed to achieve such end. RCW 9.46.010.

5. Ms. Curry has, in seven cases in Washington State, either been found guilty of criminal traffic violations or been found to have committed traffic infractions, been fined for those violations or infractions, and has failed to pay those fines. These fines have been long-standing; the oldest dates back to 2003. The total amount remaining unpaid as of the date of this hearing is \$3,593.50.

6. RCW 9.46.075(1) provides that the Commission may suspend or revoke any license or permit issued by it, for any reason or reasons it deems to

be in the public interest, including failing to comply with chapter 9.46 RCW and Title 230 WAC.

7. RCW 9.46.075(8) provides that the Commission may suspend or revoke any license or permit issued by it where the applicant or licensee fails to prove, by clear and convincing evidence, that he, she or it is qualified in accordance with the provisions of chapter 9.46 RCW.

8. WAC 230-03-085 provides that the Commission may suspend or revoke any license or permit when the licensee (1) commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075, or (3) has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level, or (8) when the licensee poses a threat to the effective regulation of gambling, or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities, as demonstrated by prior activities, criminal record, reputation, habits, or associations.

9. The Commission proved by a preponderance of the evidence that Ms. Curry's gambling license should be revoked because she has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW. RCW 9.46.075(1).

10. The Commission proved by a preponderance of the evidence that Ms. Curry's gambling license should be revoked because she has failed to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of ch. 9.46 RCW. Fines and fees must be paid, and I conclude that

she has not set payment of those fines and fees as a priority. RCW 9.46.075(8) and 9.46.153(1).

11. The Commission proved by a preponderance of the evidence that Ms. Curry's gambling license should be revoked because she committed acts – failing to pay her court-ordered fines and fees – that constitute grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075. WAC 230-03-085(1).

12. The Commission proved by a preponderance of the evidence that Ms. Curry's gambling license should be revoked because of her willful disregard for comply with ordinances, statutes, administrative rules, and court orders, at the state and local level. WAC 230-03-085(3).

13. The Commission proved by a preponderance of the evidence that Ms. Curry's gambling license should be revoked because her prior activities, criminal record, and habits pose a threat to the effective regulation of gambling, and creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gambling activities. WAC 230-03-085(8).

14. Each licensee has an affirmative responsibility to establish, by clear and convincing evidence, his continuing qualifications for licensure. RCW 9.46.153(1). Each holder of a license issued pursuant to ch. 9.46 RCW is subject to continuous scrutiny regarding his general character, integrity, and ability to engage in, or associate with, gambling or related activities impacting this state. RCW 9.46.153(7). Ms. Curry failed to establish, by clear and convincing evidence, her continuing qualifications for licensure. The evidence shows

frequent motor vehicle violations. Ultimately, however, the Commission's real concern with Ms. Curry is her failure to pay the fines and fees the Court ordered her to pay as a consequence of her traffic violations. The Commission is understandably concerned that Ms. Curry, as a holder of a gambling license, will not comply with the statutes enacted by the Legislature and the administrative rules adopted by the Commission as they relate to gambling. I have noted, in Ms. Curry's favor, that the Commission presented no evidence of misfeasance or malfeasance with regard to gambling activity per se (nor did the Commission contend that he had). I also noted Ms. Curry's argument that her failure to pay the fines and fees was not willful, but simply the result of a lack of money with which to pay. In that regard, however, I note that her failure to pay fines goes back to 2003, and she has made very few payments toward her fines and fees. Over the course of these years, she has not made the payment of these fines and fees a priority among her other obligations. Overall, Ms. Curry comes across in person as a likeable person, but failed to present clear and convincing evidence that she continues to be qualified for a gambling license while repeatedly violating other provisions of the law. While she is no longer employed by the Great American Casino, that is no reason to leave her license intact.

15. I conclude that the Commission's evidence has established that the revocation of Ms. Curry's license to act as a public card room employee is in the public interest. The available evidence shows that Ms. Curry has frequently disregarded her obligation to pay her criminal and non-criminal fines. Her failure

to pay her fines not only reflects on her unwillingness to comply with the traffic laws and the judicially imposed consequences of her misbehavior, but, just as importantly in this case, it also raises the question of her willingness to comply with the statutes and administrative rules relating to gambling, and thus raises a question whether she represents a threat to the effective regulation of gambling.

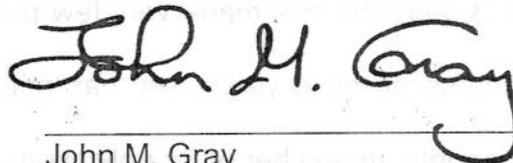
From the foregoing conclusions of law, **NOW THEREFORE:**

INITIAL ORDER

IT IS HEREBY ORDERED That the Commission's proposal to revoke Ms. Curry's CRE license, License No. 68-19871, is **GRANTED**.

A request that this order be vacated must be filed within seven days of service of this order, stating the grounds relied upon. RCW 34.05.440(3).

Signed and issued at Tacoma, Washington, this 1st day of August 2012.



John M. Gray
Administrative Law Judge
Office of Administrative Hearings

NOTICE TO THE PARTIES

Initial orders must be entered in accordance with RCW 34.05.461(3). WAC 230-17-085(1). Section 5(e) and (n) of the Compact may also apply. An initial order becomes the final order unless a party files a petition for review of the initial order as explained in WAC 230-17-090. WAC 230-17-085(2). RCW 34.05.464 governs the review of initial orders. WAC 230-17-090(1). Any party to an adjudicative proceeding may file a petition for review of an initial order. Parties must file the petition for review with us within twenty days of the date of service of the initial order unless otherwise stated.

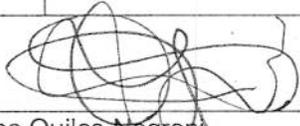
Parties must serve copies of the petition to all other parties or their representatives at the time the petition for review is filed. WAC 230-17-090(2). Petitions must specify the portions of the initial order the parties disagree with and refer to the evidence in the record on which they rely to support their petition. WAC 230-17-090(3). Any party to an adjudicative proceeding may file a reply to a petition for review of an initial order. Parties must file the reply with us within thirty days of the date of service of the petition and must serve copies of the reply to all other parties or their representatives at the time the reply is filed. WAC 230-17-090(4). Any party may file a cross appeal. Parties must file cross appeals with us within ten days of the date the petition for review was filed with us. WAC 230-17-090(5). Copies of the petition or the cross appeal must be served on all other parties or their representatives at the time the petition or appeal is filed. WAC 230-17-090(6). After we receive the petition or appeal, the commissioners review it at a regularly scheduled commission meeting within one hundred twenty days and make a final order. WAC 230-17-090(7).

Certificate of Service – OAH Docket No. 2012-GMB-0034

I certify that true copies of this document were served from Tacoma, Washington upon the following as indicated:

Address: Melissa A. Curry 8244 S D. Street Tacoma WA 98408	First Class US Mail, postage prepaid
Address: Stephanie U. Happold Assistant Attorney General Office of the Attorney General PO Box 40100 Olympia WA 98504-0100	First Class US Mail, postage prepaid
Address: Washington State Gambling Commission Communications and Legal Department PO Box 42400 Olympia, WA 98504-2400	First Class US Mail, postage prepaid
Address:	
Address:	
Address:	

Date: August 1, 2012



Josephine Quiles-Negrón
Office of Administrative Hearings