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JUN 28 2013  
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COMM & LEGAL DIVISION

STATE OF WASHINGTON  
GAMBLING COMMISSION

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JUN 21 2013  
GAMBLING COMMISSION  
COMM & LEGAL DIVISION

In the Matter of the Suspension or Revocation of the )  
Certification to Conduct Gambling Activities of: ) NO. CR 2013-00662  
)  
Penelope T. Otto )  
Auburn, Washington, )  
)  
Class III Employee. )  
\_\_\_\_\_ )

SETTLEMENT ORDER

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JUN 27 2013

OAH - Tacoma

I.

This Settlement Order is entered into between the Washington State Gambling Commission and Penelope T. Otto. Gregory Rosen, Assistant Attorney General, and Melinda Froud, Staff Attorney, represent the Gambling Commission. Ms. Otto represents herself.

II.

The Washington State Gambling Commission issued Penelope T. Otto the following certification<sup>1</sup> 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.

III.

David Trujillo, Interim Director issued a Notice of Administrative Charges and Opportunity for an Adjudicative Proceeding to the licensee on May 14, 2013. On May 22, 2013, Commission staff received the certified employee's request for a hearing.

IV.

The following is a summary of the facts alleged and the violations charged in the Notice of Administrative Charges:

**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.<sup>2</sup>

<sup>1</sup> 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.

## **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 Agency<sup>3</sup> 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

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<sup>2</sup> 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.

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

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.

V.

The certified employee acknowledges that she has read the Notice of Administrative Charges and understands the facts contained in it.

Penelope Otto has entered into a payment plan with NCO Financial Systems, Inc., and has made a substantial payment towards her fines and fees demonstrating that she no longer poses a threat to the effective regulation of gaming. The certified employee waives her right to a hearing, based on the following terms and conditions of this Settlement Order. The parties further agree to the following:

- 1) Penelope T. Otto agrees that her Class III certification is **suspended for a period of ten (10) days** provided that:
  - a) **Three (3) days of the suspension shall not be currently served, but shall be deferred for a period of one year** from the date of entry of this Settlement Order, subject to the following: The certified employee agrees not to violate the terms of this Settlement Order, or any of Washington's gambling statutes or regulations during the one (1) year term. If the certified employee violates this Settlement Order or gambling statutes or regulations, and if the violation is the type that warrants the filing of administrative or criminal charges, then the Director may impose the three-day deferred suspension of the current Class III certification and any subsequently acquired gambling licenses.
  - b) The parties agree that the Director of the Washington State Gambling Commission, pursuant to this Settlement Order, has discretion to determine whether the certified employee has violated any term of this Settlement Order. In the event the Director determines that a violation has occurred, he may suspend the Class III certification issued to the certified employee, and any subsequently acquired licenses, for up to three days, by mailing or delivering a Notice of Order of Administrative Charges to the certified employee. This suspension shall be in addition to any consequences of the new violation. The certified employee shall be afforded the opportunity to have an Adjudicative Proceeding, which includes a hearing on the alleged violations.
  - c) **The certified employee shall serve the remaining seven (7) days of this suspension, as follows:**
    - **The suspension period will begin at 8:00 a.m. on Monday, July 1, 2013, and runs through July 7, 2013.**
    - **The certified employee may resume gambling activities at 8:00 a.m. on Monday, July 8, 2013.**
  - d) During this period of suspension, the certified employee shall have no involvement, directly or indirectly, with any gambling activity, including punchboard/pull-tab activity. Ms. Otto's suspension does not prevent her from working in any non-gambling activity,

such as employment in restaurants located in establishments engaged in authorized gambling activity.

2) Ms. Otto shall continue to make regular monthly payments towards her court-ordered fines and fees, and agrees to make timely payments on any future court-ordered fines and fees. Ms. Otto shall also enter into a payment plan with OSI within 30-days from the date of this Order. Failure to continue to reduce the amount of her outstanding court-ordered fines and fees may be a disqualifying factor for certification.

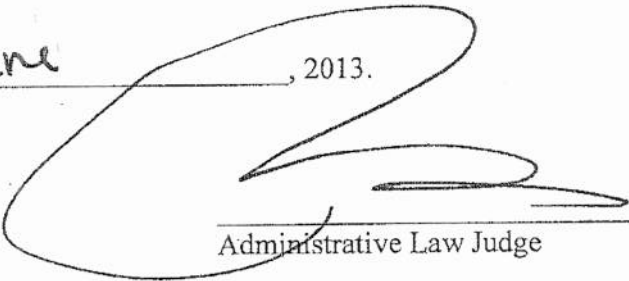
3) **The signed Settlement Order must be received by Commission staff by June 28, 2013.**  
Please mail to Commission Headquarters at the following address:

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:

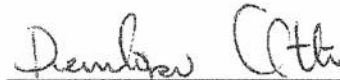
Washington State Gambling Commission  
Attention: Communications and Legal Division  
4565 7<sup>th</sup> Avenue SE; Third Floor  
Lacey, WA 98503

DATED this 28 day of June, 2013.

  
\_\_\_\_\_  
Administrative Law Judge


APPROVED FOR ENTRY:

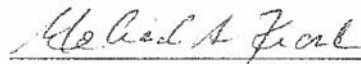
By her signature, the certified employee understands and accepts the terms and conditions of this Order

  
Penelope T. Otto  
Class III employee

6-19-2013  
(DATE)

APPROVED AS TO FORM:

  
Gregory Rosen WSBA #15870  
Assistant Attorney General  
Representing the Washington State  
Gambling Commission

  
Melinda Froud, WSBA #26792  
Staff Attorney, Washington State  
Gambling Commission