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STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE GAMBLING COMMISSION

GAMBLING COMMISSION
COMM & LEGAL DIVISION

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

JAIME L. BURGETT,
Lakewood, Washington

Licensee.

OAH Docket No. 2012-GMB-0002

WSGC No. CR 2011-01288

INITIAL ORDER

1. HEARING:

1.1 This case came before Administrative Law Judge Douglas H. Haake for an administrative hearing on February 15, 2012, at the Washington State Gambling Commission Hearing Room in Lacey, Washington, after due and proper notice to all parties. The hearing was digitally recorded.

1.2 Jaime L. Burgett, Licensee, appeared and represented herself.

1.3 The Washington State Gambling Commission (Commission) appeared through legal counsel, Stephanie U. Happold, Assistant Attorney General.

1.4 Special Agent Julie Sullivan, investigator for the Commission, appeared and testified on behalf of the Commission.

1.5 The Commission presented 42 exhibits, all of which were admitted without objection. The licensee presented one exhibit, which was admitted over Commission objection.

1.6 Ms. Burgett testified; she did not call any witnesses.

2. STATEMENT OF THE ISSUES:

2.1 Whether there are grounds for the Commission to revoke the Licensee's Class III gaming certification, under Section V.C. of the Squaxin Tribe/State Compact (Tribal Compact) for any reason it deems to be in the public interest, as provided in RCW 9.46.075 and Gambling Commission Regulations.

2.2 Whether there are grounds to revoke the Respondent's Class III gaming certification under Section V.C.1 of the Tribal Compact which provides that a Class III certification may be revoked when the certificate holder is determined to be:

A person whose prior activities, criminal record, reputation, habits and associations pose a threat to the effective regulation of gambling, or create or enhance the chances of unfair or illegal practices, methods, and activities in the conduct of gambling activities permitted pursuant to the Tribal Compact; or

A person who has violated, failed, or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by any provision of a Tribal Compact.

2.3 Whether there are grounds to revoke the Licensee's Class III gaming certification under Section V.C.1 of the Tribal Compact which further provides that the Commission may revoke an employee's Class III certification if the holder has violated, failed or refused to comply with provisions, requirements, conditions, limitations, or duties imposed by the Tribal Compact.

2.4 Whether there are grounds to revoke the Licensee's Class III gaming certification under RCW 9.46.075(1) and WAC 230-03-085(1), which provide that the Commission may revoke a Class III certification for any reason it deems to be in the public interest, including Applicant's failure to comply with Washington State laws and regulations governing gambling.

2.5 Whether there are grounds to revoke Licensee's Class III certification under WAC 230-03-085(3), which provides that the Commission may revoke a Class III certification if the holder has demonstrated willful disregard for complying with ordinances, statutes, administrative rules, or court orders, whether at the local, state, or federal level.

2.6 Whether there are grounds to revoke Licensee's Class III certification under WAC 230-03-085(8), which provides that the Commission may revoke a Class III certification when the holder 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 evidenced by prior activities, criminal record, reputation, habits or associations.

2.7 Whether the licensee can affirmatively establish by clear and convincing evidence that he is qualified to hold a gambling license in accordance with the laws and regulations governing gambling in the State of Washington as set out in RCW 9.46.075(8) and RCW 9.46.153(1).

3. FINDINGS OF FACT:

3.1 At all relevant times, Jaime L. Burgett (Burgett) has held, and presently holds a Class III gaming certification, number 69-21638, authorizing Class III Employee activity with the Squaxin Tribe's Little Creek Casino.

3.2 Special Agent Julie Sullivan (Sullivan) has been with the Washington Gambling Commission for ten years. She is currently assigned to the Commission's criminal history unit. She has undergone FBI, DEA, and Washington Criminal Justice Academy training. She has received training as and is a nationally certified fraud investigator. Sullivan testimony.

3.3 In late 2009, Sullivan conducted a background check when Burgett filed for renewal of her certification. During that review, Sullivan accessed the Judicial Information System (JIS), which is the repository for court records in Washington and found that Burgett had financial obligations owing to various courts totaling \$5,756.50. She also noted four failure to appear entries. The licensee's offenses spanned the period 2003 to 2009. The 2003 case had an outstanding balance of \$490.00. *Id.*

3.4 Failure to appear (FTA) is entered into a defendant's record for an infraction when the offender has failed to make payments as directed on court imposed financial obligations. *Id.*

3.5 Pursuant to the Tribal Compact the Commission cannot directly communicate with a tribal gaming employee. Exhibit 42, Sullivan testimony. The Compact authorizes the Commission to regulate Squaxin Tribal gaming, including issuance and revocation of gaming certification. *Id.*

3.6 On December 2, 2009, Sullivan sent a letter to the Tribal Gaming Authority (TGA) outlining the outstanding obligations and urging that the licensee begin complying with the court orders. Exhibit 2. Sullivan used "TGA" and "Squaxin Island Gambling Commission" (SIGC) interchangeably during her testimony. Both refer to the same entity, the Squaxin Island Tribal Gaming Agency. TGA as used in this order refers to the Squaxin Island Tribal Gaming Authority.

3.7 In September 2010, Sullivan did another background check on Burgett. On September 2, 2010, Sullivan again communicated concern to TGA about Burgett's outstanding court obligations, new charges filed since 2009, and an additional FTA entry in her record. Exhibit 3

3.8 On September 8, 2010, the TGA sent a letter to Burgett, with a copy of Sullivan's letter, setting forth the Commission's concerns and the TGA's expectations that Burgett would take steps to reduce the debt. Exhibit 4. Burgett signed an acknowledgement that she received TGA and Sullivan's letters, understood that she needed to pay down her fines, and that if the Commission were to take administrative action against her, she could lose her license. *Id.* page 3

3.9 In October 2011, Sullivan again did a background check of Burgett. At that time, she printed out Burgett's defendant criminal history (DCH) from JIS. Exhibits 5 and 6. She redacted the DCH so that it reflected only those charges that

were found to have been committed. Sullivan testimony. Sullivan found that the balance owing on court imposed financial obligations had increased to \$7,097, and that Burgett had two additional FTAs. *Id.*; Exhibits 5 and 6.

3.10 Burgett's DCH reflects the following:

- a. On April 6, 2011, the licensee was charged with animals at large. A committed finding was entered and a fine was imposed. No payments were made. A balance of \$500 was sent to collections.
- b. On January 27, 2011, Burgett was charged with no driver's license on person and operating a motor vehicle without insurance. Committed findings were entered and fines imposed. Burgett was allowed a time payment agreement. Her last payment was on February 28, 2011. A failure to appear was entered, the time payment agreement was revoked, and the balance of \$361 was sent to collections.
- c. On May 12, 2010, Burgett was charged with animals at large, dogs threatening pedestrians (2 counts), and dog license required (2 counts). Committed findings were entered and fines totaling \$1,150 were imposed. No payments have been made.
- d. On June 3, 2009, Burgett was charged with animals at large and dog license required. Committed findings were entered and a \$500 fine imposed. No payments have been made.
- e. On September 8, 2008, Burgett was charged with dog license required (3 counts). Committed findings were entered and a \$750 fine imposed. No payments have been made. Also on September 8, 2008, she was charged with animals at large and dog license required. Committed findings were entered and a \$500 fine imposed. No payments have been made.
- f. On August 14, 2008, Burgett was charged with dog license required. A committed finding was entered with a \$250 fine. No payments have been made.
- g. On March 27, 2008, Burgett was charged with animals at large and dog license required. A fine of \$325 was imposed. No payments have been made.
- h. On February 12, 2008, Burgett was charged with discarding potentially dangerous material and no driver's license on person. Fines totaling \$1,149 were imposed. She entered into a time payment agreement, which was revoked in 2009 based on a lack of payments. \$1,149 was sent to collections.

- i. On September 22, 2004, Burgett was charged with following too close and no driver's license on person. Committed findings were entered and fines totaling \$743 were imposed. No payments have been made.
- j. On April 26, 2004, Burgett was charged with failure to wear a safety belt. A committed finding was entered and a fine of \$153 was imposed. No payments were made.
- k. On September 28, 2003, Burgett was charged with No driver's license on person and operating a motor vehicle without insurance. Committed findings were entered and fines were imposed. A time payment agreement was allowed but subsequently revoked in 2004 when Burgett ceased to make payments. A balance owing of \$591 was sent to collections.

Exhibits 5, 6, and 9.

3.11 Burgett has a total of 6 FTAs and revoked time payment agreements associated with the offenses listed above. *Id.*

3.12 In addition to the above listed offenses, the DCH reflects a number of mostly traffic offenses that do not have outstanding amounts owing. However, the DCH also reflects that FTAs were entered in a number of those cases before they were finally paid off. *Id.*

3.13 Burgett testified that she has paid off most of her traffic related fines. Her testimony is partially supported by the record. However, she still has outstanding fines totaling \$2,997 related to traffic offenses charged in 2011, 2008, 2004, and 2003.

3.14 Burgett further testified that the animal related offenses were for animals for which she was not responsible. She indicated that the animal control officer had it in for her and cited her inappropriately. There is some support in the record for Burgett's assertion in one incident. While what she alleges could have occurred, Burgett had opportunities to contest the charges when they were originally issued. She either did not do so, or if she did, she has since chosen to ignore court orders that were entered over her objections.

4. CONCLUSIONS OF LAW:

Jurisdiction

4.1 Office of Administrative Hearings has jurisdiction over the person and subject matter herein pursuant to RCW 9.46.140, Chapter 34.05 RCW, and Title 230.

Burden Of Proof

4.2 Licensees bear the burden of establishing their qualifications by clear and convincing evidence. RCW 9.46.153(1). Each applicant and holder of a license issued pursuant to Chapter 9.46 RCW is subject to continuous scrutiny regarding his/her general character, integrity, and ability to engage in or participate in, or associate with, gambling or related activities impacting this state. RCW 9.46.153.

Legislative Intent

4.3 The legislative intent expressed in RCW 9.46.010 provides in relevant part: "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 by strict regulation and control." The statute further provides: "All factors incident to the activities authorized in this chapter shall be closely controlled, and the provisions of this chapter shall be liberally construed to achieve such end." In short, those persons who wish to work in this highly regulated industry are held to the very highest character and integrity standards.

License Suspension and Revocation

4.4 RCW 9.46.075(1) and (8) and WAC 230-03-085(1), (3), and (8), provide that the Commission may revoke a license for any reason which it finds is in the public interest, including where the licensee has violated or failed or refused to comply with the provisions, requirements, conditions, limitations, or duties imposed under Chapter 9.46 RCW or any rules adopted by the Commission under law. Likewise, WAC 230-04-400(1) and (11) provide that the Commission may revoke a license for any action which violates 9.46 RCW. The Commission may, therefore, revoke the class III certification of any individual who fails to prove by clear and convincing evidence that he or she meets the character requirements for a gambling license. RCW 9.46.075(8).

4.5 WAC 230-03-085(3), provides that the Commission may suspend a gambling license when the license holder has demonstrated willful disregard of federal, state or local laws, administrative rules, and the lawful orders of administrative bodies and courts with jurisdiction to enforce such laws and rules.

4.6 WAC 230-03-085(8), provides that the Commission may suspend a gambling license when the license holder poses a threat to the effective regulation of gaming or creates or increases the likelihood of unfair or illegal practices, methods, and activities in the conduct of gaming activities, as demonstrated through the person's prior activities, criminal record, reputation, habits, or associations.

4.7 Squaxin Tribal/State Compact for Class III Gaming, Section V.C. gives the Commission the authority to take disciplinary action under the provisions of RCW 9.46.075, and rules promulgated thereunder including license revocation with

respect to tribal gambling for any reason it deems to be in the public interest.

4.8 RCW 9.46.075(8) and RCW 9.46.153(1) place the burden on the licensee to affirmatively establish by clear and convincing evidence that he is qualified to hold a gambling license in accordance with the laws and regulations governing gambling in the State of Washington.

Analysis

4.9 Here, Burgett has exhibited a pattern of ignoring court ordered financial obligations. Her actions have resulted in an outstanding debt of \$7,097, some of which has been in collections since 2003. She has entered into time payment agreements with the courts that imposed the obligations, only to have the courts revoke the agreements when she did not make payments as promised. Burgett's actions reflect a willful disregard for rules and court orders.

4.10 Burgett's pattern of behavior poses a present threat to the effective regulation of gaming and a present threat to the public in her position as a gambling licensee; it is in the public interest that her gambling license be revoked. The Commission therefore has the authority to revoke Burgett's Class III certificate, and has delegated the initial decision regarding suspension or revocation to the Office of Administrative Hearings through the provisions of RCW 9.46.140.

4.11 Burgett has not affirmatively established by clear and convincing evidence that she is qualified to hold a gambling certification in accordance with the laws and regulations governing gambling in the State of Washington. RCW 9.46.075.

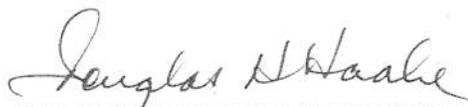
4.12 Accordingly, pursuant to the foregoing Findings of Fact and Conclusions of Law, the Class III Certification of Jaime L. Burgett shall be revoked.

5. INITIAL ORDER:

IT IS HEREBY ORDERED,

Pursuant to law and public interest, the Class III Gaming Certificate, License No. 69-21638, issued to Jaime L. Burgett by the Washington State Gambling Commission is hereby revoked.

Signed: February 21, 2012, at Olympia, Washington.



Douglas H. Haake
Administrative Law Judge
Office of Administrative Hearings

NOTICE TO THE PARTIES OF APPEAL RIGHTS

You may file an appeal of this order within twenty three days from the day OAH mails this initial order to you. WAC 230-17-090(2); *see also* WAC 230 -17 -030(2), WAC 230 -17 -035(2) [Service by first class mail is complete three days after mailing.]. An appeal from an initial order is known as a "petition for review". Your petition for review should (a) identify the parts of the initial order you disagree with and (b) refer to the evidence in the record that supports your position. If you decide to petition for review, you must serve copies of your petition on all parties or their representatives at the same time you file it with the Gambling Commission. If the Commission does not receive a petition for review within 23 days, the Commission will automatically make this order its final order.

Any party may file a written response to a petition for review, known as a reply. If you wish to file a reply, it must be filed with the Commission within thirty days of the date you are served with the petition. You must serve copies of the reply on all parties or their representatives at the same time you file your reply.

Any party may file a cross appeal. Cross appeals must be filed with the commission within ten days of the date when the petition for review is filed with the Commission. WAC 230 -17 -090(5). If you wish to make a cross appeal, you must serve copies of the cross appeal upon all other parties or their representatives at the same time you file your cross appeal.

If a party timely files a petition for review, then at least a majority of the Commission members shall review the petition within 120 days and render a final order.

Certificate of Service – OAH Docket No. 2012-GMB-0002

I certify that true copies of this document were served from Olympia, Washington on the following as indicated.

Address: Jaime L. Burgett 9826 Forest Ave SW Lakewood, WA 98498	First Class Mail, Postage Prepaid
Address: Stephanie U Happold Assistant Attorney General Office of the Attorney General PO Box 40100 Olympia, WA 98504-0100	First Class Mail, Postage Prepaid
Address: Washington State Gambling Commission Communications and Legal Department PO Box 42400 Olympia, WA 98504-2400	First Class Mail, Postage Prepaid

Date: February 21, 2012


Margaret Simmons
Hearings Scheduler