

STATE OF WASHINGTON  
GAMBLING COMMISSION

In the Matter of the Revocation of the )  
Certification to Conduct Gambling Activities of: ) NO. CR 2011-00847  
)  
Benjamin M. Hodge ) **FINDINGS, CONCLUSIONS,**  
Tacoma, Washington, ) **DECISION, AND FINAL**  
) **ORDER IN DEFAULT**  
Class III Employee. )

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THE MATTER of the revocation of the certification to conduct gambling activities of Benjamin M. Hodge having come before the Commission on November 17, 2011, the State being represented by Jerry Ackerman, Senior Counsel, Office of the Attorney General, 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 Benjamin M. Hodge certification<sup>1</sup> number 69-29074, authorizing Class III Employee activity, formerly with the Puyallup Tribe. This certification expires on October 19, 2011, and was issued subject to the certified employee's compliance with state gambling laws and regulations.

II.

On August 18, 2011, Director Rick Day issued administrative charges to Benjamin M. Hodge, by certified and regular mail. The administrative charges notified Mr. Hodge that failure to respond would result in the entry of a default order revoking his certification. Mr. Hodge did not respond to the charges.

By not responding, Benjamin M. Hodge waived his right to a hearing on such charges and pursuant to RCW 34.05.440, this final order may be entered in default.

III.

1) On June 23, 2011, a Commission Special Agent (agent) was assigned to investigate Mr. Hodge's qualification for continued certification after the Puyallup Tribal Gaming Regulatory Office (PTGRO) informed Commission Staff that PTGRO had revoked Mr. Hodge's tribal gaming license.

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<sup>1</sup> Class III Certification is issued to employees working at tribal Casinos. The certification authorizes similar activities as the Card Room Employee (CRE) license issued to individuals working at commercial house-banked card rooms. By submitting a transfer form and fees, holders of a Class III Certification may convert their certification to a CRE license.

2) In her review, the agent considered the following documents forwarded by PTGRO which reflect the following facts:

- On April 30, 2011, a Puyallup Police Officer (PPO) asked to speak to PTGRO regarding an Emerald Queen Casino (EQC) Security Officer, Benjamin Hodge. The PPO was made aware through Mr. Hodge's estranged girlfriend, Canada Barber, that Mr. Hodge had blueprints of the I-5 EQC, and that Mr. Hodge was boasting that he knows how to "take down" the casino.
- Later on April 30th, a PPO spoke to Ms. Barber's father, who said Ms. Barber would visit the police station on Sunday May 1, 2011.
- On May 1, 2011, a Puyallup Tribal Police Officer (PTPO) met with Ms. Barber. Ms. Barber had a Restraining Order at the time protecting her from Mr. Hodge. Ms. Barber informed the PTPO that she was in possession of some items which she believed Mr. Hodge stole from the EQC. Ms. Barber stated further that Mr. Hodge had made comments that he could take down the EQC with the help of a few people, because he knew all of the casino security weaknesses. Ms. Barber brought a number of items to the Puyallup Tribal Police Department (PTPD) that she identified as having been stolen from the EQC.
- On May 2, 2011, Robert Yerbery, PTGRO, and several managers from the EQC arrived at the PTPD and identified the items turned in as items missing from the EQC Riverboat storage property. The items and their monetary value were identified as follows:

- 1 - 31 x 27 inch picture, \$200;
- 1 - 24 x 20 inch picture, \$100;
- 1 - chafing dish \$80;
- 3 - 21¼ x 9½ inch glass panes, \$80 each, total \$240;
- 55 - 5½ x 5½ inch glass panes, \$20 each, total \$1,120;
- 1 - metal water container with lid, \$100;
- 4 - stainless steel teapot creamers, \$20 each, total \$80;
- 1 - digitalizing plotter, no value;
- 1 - door knob assembly, \$30 value;
- 1 - 3M overhead projector, \$379; and
- 1 - set of blueprints, value undetermined.

Grand total value = \$2,329

- On May 3, 2011, Mr. Hodge was transported to the PTPD main office and was interviewed. After receiving Miranda warnings, Mr. Hodge admitted to removing numerous EQC property items from the storage site approximately six months earlier. Mr. Hodge stated further that he was on duty when he took the EQC property, and he knew it was wrong. Upon conclusion of the interview, Mr. Hodge's tribal gaming license was suspended pending revocation, and he was placed under arrest by PTPD for Theft 1<sup>st</sup> Degree and Possession of Stolen Property, 2<sup>nd</sup> Degree.

- During the search incident to Mr. Hodge's arrest, an officer found two eight-tablet bundles of Vicodin. The way they were bundled, the tablets would have a street value of \$200 per bundle. Mr. Hodge told the officer that he had a prescription for the Vicodin, and took three or four tablets per day. Mr. Hodge was arrested for the additional crime of Unlawful Possession of a Controlled Substance with Intent to Distribute or Deliver. Mr. Hodge was then transported to the Pierce County Jail.

3) On May 5, 2011, PTGRO revoked Mr. Hodge's Tribal Gaming License due to his theft and possession of stolen property. Mr. Hodge was also barred from all gaming establishments regulated by PTGRO.

4) The agent subsequently determined that Pierce County dismissed its charges without prejudice against Mr. Hodges, and the Puyallup Tribe did not file any charges against Mr. Hodges because he is not a Tribal member.

5) Based on his actions, Mr. Hodge poses a threat to the effective regulation of gaming and enhances the chance of unfair illegal practices. He also has failed to establish by clear and convincing evidence the necessary qualifications for certification under RCW 9.46.153(1).

6) Therefore under Section V.E. of the Puyallup Tribe Tribal/State Compact, RCW 9.46.075(1) and (8), and WAC 230-03-085(1) and (8), grounds exist to revoke Benjamin M. Hodge's certification.

#### **Section V.E. of the Puyallup Tribe/State Compact**

The State Gaming Agency<sup>2</sup> may revoke a State certification under the provisions of RCW 9.46.075, for any reason or reasons it deems to be in the public interest.

(The following subsection applies.)

(1) Posing a threat to the effective regulation of gambling as demonstrated through prior activities or reputation is grounds to revoke.

#### **RCW 9.46.075 Denial, suspension, or revocation of license, application, 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.

(8) Fails to prove, by clear and convincing evidence, that he is qualified in accordance with the provisions of this chapter.

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<sup>2</sup> Washington State Gambling Commission, as referred to in the Puyallup Tribal/State Compact.

**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.

(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 9.46.153(1) Applicants, licensees-Responsibilities, and duties-Waiver of liability- Investigation statement as privileged.**

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.

IV.

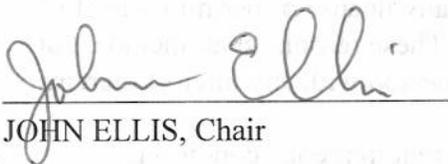
**CONCLUSIONS OF LAW**

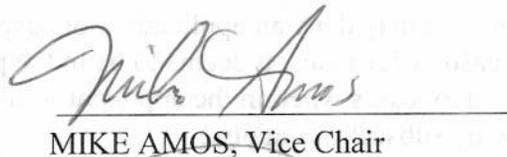
The circumstances specified in the Findings of Facts in section III above constitute grounds for the revocation of Benjamin M. Hodge's certification to conduct gambling activities under the authority of Puyallup Tribe Tribal/State Compact, RCW 9.46.075 and WAC 230-03-085.

**DECISION AND ORDER**

The Washington State Gambling Commission HEREBY ORDERS: Benjamin M. Hodge's Class III certification to conduct gambling activities is REVOKED.

DATED this 17th day of November, 2011.

  
\_\_\_\_\_  
JOHN ELLIS, Chair

  
\_\_\_\_\_  
MIKE AMOS, Vice Chair

\_\_\_\_\_  
KEVEN ROJECKI

  
\_\_\_\_\_  
MICHAEL REICHERT

\_\_\_\_\_  
SUSAN NIELSEN

**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:

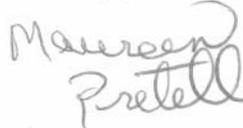
Washington State Gambling Commission  
Communications & Legal Division  
PO Box 42400  
Olympia, Washington 98504-2400

Stephanie Happold  
Assistant Attorney General  
P.O. Box 40100  
Olympia, WA 98504-0100

STATE OF WASHINGTON )  
 )SS  
COUNTY OF THURSTON )

I hereby certify that I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 22 day of November, 2011



Communications and Legal Department  
Washington State Gambling Commission

NOTICE: RCW 24.03.040(1) provides that within seven (7) days after service of a document upon all parties to the proceeding, a copy thereof shall be mailed to each party to the proceeding or his or her attorney or authorized agent.

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PO Box 48114  
Olympia, WA 98504-0114

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STATE OF WASHINGTON )  
                                  )ss  
COUNTY OF THURSTON )

I hereby certify that I have this day served a copy of the document upon all parties to the proceeding by mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Court Reporter  
Washington State Bar Association

