

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the)
Certification to Conduct Gambling Activities of:) NO. CR 2013-00934
)
Ervin S. Osorio) **FINDINGS, CONCLUSIONS,**
Toppenish, Washington,) **DECISION, AND FINAL**
) **ORDER IN DEFAULT**
Class III Employee.)

THE MATTER of the revocation of the certification to conduct gambling activities of Ervin S. Osorio having come before the Commission on September 12, 2013, 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 Ervin S. Osorio certification number 69-10574, authorizing Class III Employee activity¹ at Yakama Legends Casino.

The certification expires on December 20, 2013, and was issued subject to Mr. Osorio's compliance with state gambling laws and rules.

II.

On July 5, 2013, Director David Trujillo issued administrative charges to Ervin S. Osorio by certified and regular mail. The administrative charges notified Mr. Osorio that failure to respond would result in the entry of a default order revoking his certification. Mr. Osorio did not respond to the charges and waived his right to a hearing. Pursuant to RCW 34.05.440, this final order is entered in default.

III.

SUMMARY:

On May 22, 2013, Mr. Osorio was found guilty of Conspiracy to Distribute Methamphetamine and Distribution of Methamphetamine. On April 30, 2013, the Yakama Nation Tribal Gaming Agency revoked his tribal gaming license.

¹ 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.

FACTS:

1. On April 24, 2013, a Washington State Gambling Commission Special Agent (agent) received notification via e-mail that Mr. Osorio had been terminated from Yakama Legends Casino due to a criminal violation.
2. Subsequently, the agent phoned Yakama Nation Tribal Gaming Agency (YNTGA) Licensing Supervisor Charlene Tillequots and learned that Mr. Osorio had been arrested at the Yakama Legends Casino. She indicated that the YNTGA would be seeking revocation.
3. The agent received written notification from the YNTGA that in their April 30, 2013, meeting they revoked Mr. Osorio's license due to his arrest and pending charges. Accompanying the letter were copies of the Warrant for Arrest and Indictment charging Mr. Osorio with Conspiracy to Distribute Methamphetamine and Distribution of Distributing of Methamphetamine. Ms. Tillequots later provided copies of the notifications sent to Mr. Osorio regarding the revocation of his tribal license.
4. The agent contacted the Assistant U.S. Attorney who filed the indictment, Paulette Stewart, and learned that Mr. Osorio was scheduled for trial on May 21, 2013.
5. On June 3, 2013, the agent checked the Public Access to Court Electronic Records (PACER) system to learn the status of Mr. Osorio's criminal case. The PACER system indicates that the jury found him guilty of both counts (Conspiracy to Distribute and Distribution of Methamphetamine) on May 22, 2013. Mr. Osorio is scheduled for sentencing on September 11, 2013.

VIOLATIONS:

1) Section V. C. of the Tribal-State Compact for Class III Gaming with the Confederated Tribes and Bands of the Yakama Indian Nation.

The State Gaming Agency² may revoke, suspend or deny a State certification under the provisions of RCW 9.46.075, and rules promulgated thereunder, for any reason or reasons it deems to be in the public interest. In addition, these reasons shall include, but shall not be limited to when an applicant or holder of certification or principal of an entity:

(1) Is determined to be a person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the effective regulation of gaming or create or enhance the chances of unfair or illegal practices, methods and activities in the conduct of the gaming permitted pursuant to this Compact; or the person has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by any provision of a Tribal-State Compact.

(3) Has had a Tribal or State gaming license revoked or denied during the twelve (12) months

² Washington State Gambling Commission, as referred to in Section II.V. of the Tribal-State Compact for Class III Gaming between the Yakama Indian Nation.

prior to the date of receipt of the application; is currently on probation; or has demonstrated a willful disregard for compliance with gaming regulatory authority in any jurisdiction, including offenses that could subject the individual or entity to suspension, revocation or forfeiture of a gaming license.

For the purpose of reviewing any application for a state certification or for considering the denial, suspension or revocation of any state certification the State Gaming Agency may consider any prior criminal conduct or current probationary status of the applicant or holder of certification and the provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to such cases.

2) 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 certified employee, 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.

(4) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of bribing or otherwise unlawfully influencing a public official or employee of any state or the United States, or of any crime, whether a felony or misdemeanor involving any gambling activity or physical harm to individuals or involving moral turpitude;

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

(10) Has pursued or is pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates probable cause to believe that the participation of such person in gambling or related activities would be inimical to the proper operation of an authorized gambling or related activity in this state. For the purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management or execution of an activity for financial gain;

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, certified employee, or anyone holding a substantial interest in the applicant's or certified employee'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.

4) RCW 9.46.153(1) Applicants and licensees - responsibilities and duties

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.

The YNTGA revoked Mr. Osorio's Tribal gaming license, and he has been found guilty of two criminal charges involving the distribution of methamphetamine; these are crimes involving moral turpitude. As a result, Ervin S. Osorio has demonstrated that he poses a threat to the effective regulation of gambling or increases the likelihood of unfair or illegal practices. Mr. Osorio has failed to establish clearly and convincingly that he is qualified to be certified, in violation of RCW 9.46.153(1). As a result, grounds exist to revoke Ervin S. Osorio's Class III certification under the Yakama Nation Tribal/State Compact, RCW 9.46.075(1), (4), (8), and (10), WAC 230-03-085(1), (3) and (8).

IV.

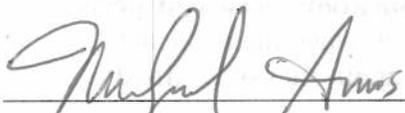
CONCLUSIONS OF LAW

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

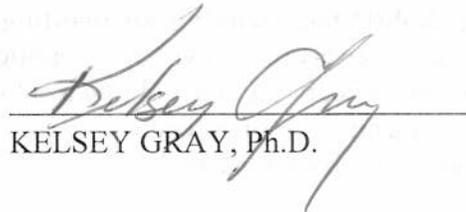
DECISION AND ORDER

The Washington State Gambling Commission HEREBY ORDERS: Ervin S. Osorio's certification to conduct gambling activities is REVOKED.

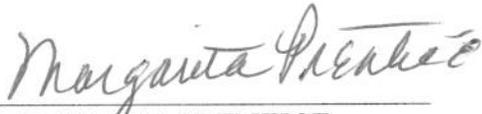
DATED this 12th day of September, 2013.



MICHAEL AMOS, Chair



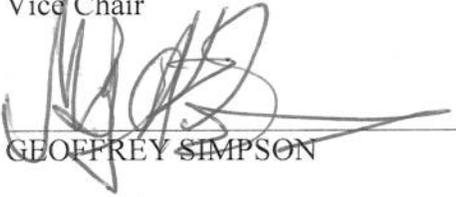
KELSEY GRAY, Ph.D.



MARGARITA PRENTICE,
Vice Chair



CHRISTOPHER STEARNS



GEOFFREY SIMPSON

PRESENTED BY:



Amy B. Hunter, WSBA# 23773
Administrator, Communications and Legal Division
Washington State Gambling Commission

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.

NOTICE: Petition for Judicial Review

You have the right to appeal this Final Order to Superior Court, pursuant to the Petition for Judicial Review provisions of RCW 34.05.542. Any Petition for Judicial Review of this Final Order must be filed with the court and also served upon both the Commission and the Office of the Attorney General within thirty (30) days after the date this Final Order is served upon you.

WAC 230-17-040(3) requires that motions be served on the parties listed below:

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