

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Revocation of the)
License to Conduct Gambling Activities of:) NO. CR 2009-00816
)
Marianne Tholmer,) **FINDINGS, CONCLUSIONS,**
Edmonds, Washington,) **DECISION, AND FINAL**
) **ORDER IN DEFAULT**
Licensee.)

THE MATTER of the revocation of the license to conduct Charitable or Nonprofit Gambling Manager activities of Marianne Tholmer having come before the Commission on April 9th, 2010, 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 Marianne Tholmer the following license:

Number 61-04304, Authorizing Charitable or Nonprofit Gambling Manager Activity formerly for Fraternal Order of Eagles (FOE) #4122.

This license expires on June 9, 2010, and was issued subject to the licensee's compliance with state gambling laws and regulations.

II.

On February 10, 2010, Director Rick Day issued administrative charges to the licensee, by certified and regular mail. The administrative charges notified the licensee that her failure to respond would result in the entry of a default order revoking her license. The licensee did not respond to the charges.

By not responding, Marianne Tholmer waived her right to a hearing on such charges and pursuant to RCW 34.05.440, this final order may be entered in default.

III.

1) From March 2008 through April 2009 the licensee, while acting as the gambling manager for FOE #4122, failed to accurately and timely deposit pull-tab revenue, accurately complete deposit records and Monthly Income Summaries, and safeguard gambling revenue from misuse or theft.

- 2) When the licensee was the gambling manager for FOE #4122:
- Pull-tab revenue was not deposited within two banking days from when the game was removed from play.
 - Pull-tab revenue deposit amounts were different than the amount recorded in the pull-tab deposit book and the amount of actual cash recorded on the Monthly Income Summary.
 - The Monthly Income Summaries did not accurately record when games were removed from play.
 - At least \$4,392 in pull-tab revenue was not deposited and could not be accounted for.
- 3) As a result of the licensee's actions, FOE #4122 failed to accurately and timely deposit gambling receipts and failed to have accurate and detailed Monthly Income Summaries in violation of WAC 230-07-090 and 230-14-285.
- 4) The licensee's actions violated WAC 230-07-115 and demonstrate that she 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 a result, the licensee has failed to prove by clear and convincing evidence that she is qualified licensure. Grounds, therefore, exist to revoke Marianne Tholmer's license under RCW 9.46.075(1) and (8), and WAC 230-03-085(1) and (8).

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 she is qualified in accordance with the provisions of this chapter;

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.

WAC 230-07-115 Duties of charitable or nonprofit gambling managers.

Charitable or nonprofit gambling managers must:

- (1) Be knowledgeable of the laws and rules that relate to the operation of the gambling activities and the restrictions on the use of funds made from gambling activities for which they are responsible; and
- (2) Supervise the gambling activity, including all secondary activities, such as retail sales, conducted along with gambling activities; and
- (3) Ensure:
 - (a) The business premises are maintained in a safe condition and persons participating in the activity are reasonably protected from physical harm; and
 - (b) Fair and equal participation by players in gambling activities; and
 - (c) All records are completed and correct; and
 - (d) All funds are disbursed or invested according to the directions of the officers or governing board and are used solely to further the charitable or nonprofit purpose(s) of the organization; and
- (4) Protect:
 - (a) The public from fraud; and
 - (b) The organization from players or workers committing illegal acts; and
 - (c) All gambling assets of the organization from misuse or theft; and
- (5) Safeguard funds or other assets made from gambling and secondary activities for which he or she is responsible until directly deposited in the organization's bank account.

WAC 230-07-090 Keeping and depositing all gambling funds separate from other funds.

Charitable or nonprofit licensees must protect all funds generated from gambling activities and keep these funds separate from their general funds.

(The following subsection applies.)

- (1) Licensees must:
 - (f) Deposit all net gambling receipts which they are holding, pending pay out:
 - (iii) From punch board and pull-tabs, including cost recovery for merchandise prizes awarded, no later than two banking days after they remove the board or series from play.

WAC 230-14-285 Monthly income summary.

The following subsection(s) apply:

- (1) Punch board and pull-tab licensees must prepare a detailed monthly income summary for punch board and pull-tab series removed from play in the format we require either manually or electronically.

IV.

CONCLUSIONS OF LAW

The circumstances specified in the Findings of Facts in section III above constitute grounds for the revocation of Marianne Tholmer's license to conduct Charitable or Nonprofit Gambling Manager activities under the authority of RCW 9.46.075 and WAC 230-03-085.

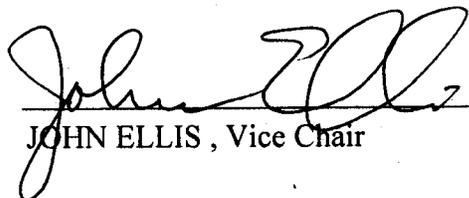
DECISION AND ORDER

The Washington State Gambling Commission HEREBY ORDERS: Marianne Tholmer's license to conduct Charitable or Nonprofit Gambling Manager activities is REVOKED.

DATED this 9th day of April, 2010.



KEVEN ROJECKI, Chair



JOHN ELLIS, Vice Chair



MIKE AMOS



MICHAEL REICHERT

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.

Motions must be mailed to:

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

Or delivered in person or via private courier:

Washington State Gambling Commission
Communications and Legal Division
4565 7th Avenue SE
Lacey, Washington 98503