

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension or Revocation)
of the Licenses to Conduct Gambling Activities of:)
)
American Legion Number #00176)
14011 NE 20th Ave.)
Vancouver, Washington,)
)
Licensee.)
_____)

No. CR 2009-00749

**NOTICE OF ADMINISTRATIVE
CHARGES AND OPPORTUNITY
FOR AN ADJUDICATIVE
PROCEEDING**

I.

The Washington State Gambling Commission issued American Legion Number 00176 (Salmon Creek), organization number 00-06290, the following licenses:

Number 01-01965, Authorizing Class "F" Bingo Activity;
Number 02-02841, Authorizing Class "A" Bingo Activity;
Number 05-02847, Authorizing Class "G" Bingo Activity;
Number 60-00334, Authorizing Class "D" Bingo Activity.

The licenses expire on June 30, 2010, and were issued subject to the licensee's compliance with state gambling laws and regulations.

II.

Rick Day, Director, of the Washington State Gambling Commission, charges the licensee with the following violations of the Washington State Gambling Act, 9.46 RCW, and WAC Title 230.

SUMMARY:

The licensee has failed to provide Commission staff with required Annual Statements and financial statements for 2006 and 2007 in a timely manner, and failed to provide their annual report for year 2008, as requested. Grounds exist to suspend or revoke the licenses under RCW 9.46.075, and WAC 230-03-085.

FACTS:

- 1) In June, 2009, a Commission Special Agent (agent) was asked to contact Salmon Creek to obtain their required qualification materials¹ from 2006 and 2007. Salmon Creek is a Group III non-profit.²
- 2) The licensee's file included a letter from Richard Thompson, Certified Public Accountant for Salmon Creek, requesting an extension for filing the 2006 financial statements. Commission staff granted an extension through June 30, 2007.
- 3) On July 2, 2007, the Commission received a copy of a letter from Mr. Thompson to Ms. Peggy Brooks, general manager of the bingo hall at Salmon Creek, stating that none of the Salmon Creek requested materials had been received to complete the report. On July 11, 2007, Commission staff received a letter from Peggy Brooks, apologizing for the lateness of the annual report, and declaring that she was attempting to gather the required documents for Mr. Thompson.
- 4) On June 16, 2008, an agent sent Ms. Brooks an e-mail stating that the 2006 report had not been submitted, and that the 2007 report was late as well.
- 5) On July 24, 2008, the agent granted Salmon Creek a 60-day extension for their 2007 report.
- 6) On September 29, 2008, the agent sent Mr. Thompson an e-mail inquiring about the status of the report.
- 7) On October 27, 2008, the agent sent Ms. Brooks a letter restating the lateness of the reports. He gave a final deadline of November 3, 2008, to provide the reports.
- 8) In January of 2009, the reports had still not been received by Commission staff. The agent called Salmon Creek, and found that Ms. Brooks no longer worked there. The agent forwarded his previous correspondence regarding the matter to the new manager, Cora Lane.
- 9) On or about April 20, 2009, the agent was contacted by Wayne Sharp, Commander for Salmon Creek American Legion. Mr. Sharp agreed to meet with the agent and provide the requested reports.
- 10) On April 22, 2009 Mr. Sharp sent a letter to the agent requesting another extension for filing the late reports.

¹ Pursuant to WAC 230-07-060 (1) and (2) Charitable and Nonprofit organizations have a responsibility to provide required reports as requested by the Commission to determine if the organization continues to qualify as a bona fide non-profit authorized to conduct gambling activities. The reports are due annually on April 30 of the year following the calendar year end.

² Pursuant to WAC 230-07-015, Group III licensees are authorized to have annual gross gambling receipts of up to three million dollars.

11) On April 24, 2009, the agent met with Mr. Sharp in the Commission office to discuss their annual reports. Mr. Sharp stated that Salmon Creek was in financial distress, had tax issues with the county, and was having problems paying the Certified Public Accountant to get the reports completed. Mr. Sharp provided the agent with the 2006 reports, and stated he would provide the 2007 reports soon.

12) On May 1, 2009, the agent granted Salmon Creek an extension to submit their 2008 annual report by July 22, 2009.

13) On May 4, 2009, the agent received the 2007 annual report.

14) On May 5, 2009, the agent visited Salmon Creek at their bingo hall and met with some of the Legion's Officers. The agent stated that they were not in compliance with reporting requirements, rules and laws, and that their 2008 annual report had not been submitted to date. The agent noted the seriousness of the violations in this meeting.

15) The 2008 report was not received by the July 22, 2009 deadline. As of February 3, 2010, it remained outstanding.

16) The licensee has the following history regarding providing its annual report and financial statements:

- 2002-Financial statements and Annual Reports filed late.
- 2003-Financial statements and Annual Reports filed late. Administrative charges filed, case settled.
- 2004-Financial statements and Annual Reports not provided.
- 2005- Financial statements and Annual Reports not provided.

The licensee failed to provide timely annual reports for the years 2006 and 2007. The licensee has failed to provide the 2008 annual report as requested, in violation of RCW 9.46.075(1) and (5), WAC 230-030-85(7), WAC 230-07-145, WAC 230-07-150 and RCW 9.46.153(1). As a result, there are grounds to suspend or revoke the license(s) under RCW 9.46.075, and WAC 230-03-085.

VIOLATIONS:

RCW 9.46.075(1) and (5) Denying, suspending, or revoking an application, license

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.

(5) Fails to produce any book, record, document or item required by law or Commission rule.

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

WAC 230-03-085 Denying, suspending, or revoking an application, license

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.

(7) Fails to provide us with any information required under Commission rules within the time required, or, if the rule establishes no time limit, within thirty days after receiving a written request from us.

(8) Fails to prove, by clear and convincing evidence, that it is qualified in accordance with the provisions of this chapter. RCW 9.46.153(1) provides that it shall be the affirmative responsibility of each 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.

Salmon Creek failed to timely provide financial statements and reports, despite extensions and repeated requests by Commission staff. By not providing the annual report and financial statements as requested, Salmon Creek has failed to provide the materials to prove they continue to qualify for a gambling license, and grounds exist to suspend or revoke its licenses under RCW 9.46.075 (1) and (5), and WAC 230-03-085 (1), (3), (7) and (8).

WAC 230-07-145 Reporting annual progress.

Charitable or nonprofit licensees must report annually their progress toward meeting their stated purpose in the format we prescribe. This report must explain the type and scope of activities which licensees conducted during their last annual fiscal accounting period. In addition, the report must include, at least:

(1) A brief history of the licensed organization, including its stated charitable or nonprofit purpose(s);

- (2) A written statement setting out their goals for meeting their stated charitable or nonprofit purpose(s) in the future;
- (3) The number of full and regular members;
- (4) A list of contributions, scholarships, grants, or sponsorships made during the period. This list must include:
 - (a) The name of each organization or individual receiving a contribution from the licensee. The licensee may use the phrase "individual contribution" in place of the recipient. If the recipient is not named in the report, the licensee must maintain records to verify and identify the recipient of each individual contribution; and
 - (b) Whether funds awarded were from gambling income or other funds; and
- (5) Gross income from all nongambling activities and the source of the income;
- (6) The revenue and expenses for any nongambling sales activities, presented separately, when conducted primarily in conjunction with gambling activities;
- (7) Total expenses for both charitable or nonprofit services;
- (8) The percentage or extent to which the licensee used net gambling income for charitable as distinguished from nonprofit purposes; an
- (9) The details of any loans, contracts, or other business transactions with related parties that accumulatively exceed one thousand dollars during the period. "Related parties" means officers, board members, key employees, or members of the licensed organization, including direct relatives of each.

Salmon Creek has failed to provide the required reports, in violation of WAC 230-07-145. As a result, Commission staff cannot perform the necessary qualification review to determine whether or not the organization continued to qualify as a bona fide non-profit authorized to conduct gambling activities, and grounds exist to suspend or revoke its licenses under RCW 9.46.075 (1) and (5), and WAC 230-03-085 (1), (3), (7) and (8).

WAC 230-07-150 Financial Statements required for groups III, IV, and V.

- 1) In addition to information required in WAC 230-07-145, charitable or nonprofit licensees in Groups III, IV, and V must also submit complete financial statements prepared in accordance with generally accepted accounting principles (GAAP).

(2) Licensees in Groups IV and V must have the financial statements prepared by an independent certified public accountant.

(3) The statements and all required disclosures or footnotes no later than one hundred twenty days following the end of the licensee's fiscal year.

(4) The financial statements must include:

(a) A statement of financial position;

(b) A statement of activities. This statement may be presented in a consolidated form if licensees provide the details of each component as supplemental information. Licensees must present revenue and expenses for each activity separately as follows:

(i) Each gambling activity; and

(ii) Retail sales conducted in conjunction with gambling activities;

(c) A statement of cash flows;

(d) A statement of functional expenses;

(e) In addition to all disclosures required by GAAP, the financial statements must disclose the following:

(i) Loans to or from officers, board members, and employees: We will not consider employee salary advances of five hundred dollars or less as loans. Details of all terms, including interest rates and payment schedules, must be disclosed.

Salmon Creek is a Group III non-profit, and has not provided the required financial statements under this rule for 2008, and was late in their filing of the required financial reports for fiscal years 2006 and 2007. Grounds exist to suspend or revoke its licenses under RCW 9.46.075 (1) and (5), and WAC 230-03-085 (1), (3), (7) and (8).

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III.

Jurisdiction of this proceeding is based on 9.46 RCW, Gambling, chapter 34.05 RCW, the Administrative Procedure Act, and WAC Title 230.

The licensee will have the opportunity to have a hearing on the alleged violations.

In order to have a hearing or discuss settlement options, the enclosed request for hearing must be completed and returned to the Gambling Commission **within 23 days** from the date of the mailing of this notice.

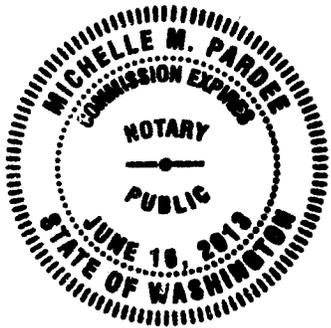
Based on RCW 34.05.440, failure to return this document will result in the entry of a default order REVOKING your licenses.

STATE OF WASHINGTON)
) ss.
COUNTY OF THURSTON)

Rick Day, being duly sworn on oath, says: That he has read this Notice of Administrative Charges and Opportunity for An Adjudicative Proceeding, knows the contents of it, believes it to be true, that he is the Director of the Washington State Gambling Commission, and in that capacity has executed said Notice.

Rick Day

RICK DAY, DIRECTOR



SUBSCRIBED AND SWORN TO before me
this 2nd day of February, 2010.

Michelle M. Pardee

NOTARY PUBLIC in and for the State of
Washington residing at LACEY
My Commission expires on June 16, 2013

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, by regular and certified mail to each party to the proceeding or his or her attorney or authorized agent.

Dated at Olympia, Washington this 5th day of February, 2010

Mauraan Prebble

Communications and Legal Department
Washington State Gambling Commission