

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension or)
Revocation of the License to Conduct)
Gambling Activities of:)
)
Ducks Unlimited, Washington State)
Longview, Washington,)
)
Licensee.)
_____)

No. CR 2011-00453

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

I.

The Washington State Gambling Commission issued Ducks Unlimited Washington State, organization number 00-10345, the following license:

- Number 02-01973, authorizing Class "F" Raffle activity.

The license expires on February 25, 2013, and was issued subject to the licensee's compliance with state gambling laws and rules.

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:

Ducks Unlimited, a Class F raffle license, did not keep the required raffle records, failed to provide an audit trail to verify the funds were used for the organization's stated purpose, failed to maintain a separate gambling account, offered free raffle tickets, offered liquor as prizes, and sold raffle tickets for more than \$100.

FACTS:

RECORDKEEPING VIOLATIONS

1) On January 11, 2011, a Washington State Gambling Commission Special Agent (agent) sent a notification letter to Mr. George Doty, Washington State representative for Ducks Unlimited, requesting the following raffle records for the period of February 26, 2009, to February 25, 2010:

- Raffle annual activity report, raffle summaries, raffle ticket distribution logs, raffle

winner's registers and prize inventory control records for the license year ended 2/25/2010.

- Raffle prizes purchase invoices for the period 2/26/2009 through 2/25/2010.
- All unsold raffle tickets.
- Bank statements, cancelled checks and check registers for the gambling and general accounts for the period 2/26/2009 through 2/25/2010.
- Copy of the organization's By-laws.
- Statement which details the organization's purpose for being.
- Other items upon request.

No raffle records were provided. The agent was referred to Steve Thies, President of Ducks Unlimited in Washington State. Mr. Thies then referred the agent to David Marrone, Assistant General Counsel of Ducks Unlimited in Memphis, Tennessee.

2) On February 17, 2011, the agent sent an e-mail to Mr. Marrone again requesting raffle records and corporate documents. Mr. Marrone provided a statewide raffle event recap summary of the ninety raffles held by the Ducks Unlimited from February 26, 2009, to February 25, 2010. The 2009/2010 statewide raffle event recap summary disclosed that Ducks Unlimited recorded \$479,030 in raffle revenue and \$101,236 in raffle expenses. Mr. Marrone also provided a copy of the Ducks Unlimited 2009/2010 Operating Manual, which included the Certificate of Incorporation, By-Laws, and Organizational Plan. No raffle records in our required standard format were provided.

3) On May 31, 2011, an agent contacted Mr. Thies and requested records from February 26, 2009 to February 25, 2010, for the Edmonds, Everett, La Conner, Seattle and Stanwood Chapters' raffles. The agent was directed to contact John Tierney, Regional Director of Ducks Unlimited in Washington State, for these records. On June 10, 2011, the agent sent an e-mail to Mr. Tierney requesting the records.

4) On June 20, 2011, the agent met with Mr. Thies, Mr. Tierney, and two other members of Ducks Unlimited. The licensee provided only a set of records for the Seattle Chapter for the time period requested. The following is a summary of raffle events from the Statewide Raffle Event Summary for the five Chapters requested by the agent:

- Seattle - October 1, 2009, (Records provided);
- La Conner - May 8, 2009, (**Records not provided**);
- Everett - May 9, 2009, (**Records not provided**);
- Stanwood - February 18, 2010, (**Records not provided**); and
- Edmonds - April 23, 2009, (**Records not provided**).

5) In addition, the licensee provided records for the Edmonds, Everett, La Conner, and Stanwood Chapters' raffles that took place after February 25, 2010, which is outside of the requested time period.

- 6) On July 1, 2011, the agent sent a letter to Dale Hall, National President of Ducks Unlimited, formally requesting the missing raffle and organizational records. On July 15, 2011, Mr. Tierney left the agent a message responding to the letter saying he would be in touch. As of April 2, 2012, the requested raffle and organizational records were not provided.
- 7) None of the other four Chapter's raffle records the agent requested from February 26, 2009 to February 25, 2010 were ever provided. Only the bank statements from the Seattle chapter of Ducks Unlimited were provided. The bank statements, cancelled checks, and check registers were not provided from the Edmonds, Everett, La Conner, and Stanwood chapters.
- 8) The licensee failed to establish controls and accounting procedures necessary to determine its gross gambling receipts. Only the Seattle records from the October 1, 2009, raffle were in the agency's required standard format, but these records were not complete or accurate. None of the other records provided were in the agency's required standard format. Ducks Unlimited did not have a separate gambling receipts bank account(s) to deposit the raffle gross receipts. No validated deposits were retained, invoices were not provided for raffle prizes and raffle ticket purchases, raffle records were not completed within thirty days and the licensee failed to retain raffle records for three years, in violation of WAC 230-07-060 (1) (2)(b)(c)(d). The licensee did not provide all requested bank statements, cancelled checks, check registers, or deposit slips, in violation of WAC 230-07-090 (1)(a)(b)(c)(e)(f)(ii).
- 9) The raffle records produced by Ducks Unlimited did not provided a satisfactory audit trail to verify that the licensee used the funds for the organization's stated purpose, in violation of WAC 230-07-130 (1)(2).

OPERATIONAL VIOLATIONS

- 10) During the Stanwood February 17, 2011, dinner/raffle event, Ducks Unlimited conducted a "Dart Throw" in which players tossed darts at objects in order to win raffle tickets. During the Edmonds event on April 28, 2011, the licensee held an amusement game called "Bean Bag Toss Raffle," in which the player tosses a bean bag into a bucket to win raffle tickets for a chance to win a shotgun. The "Dart Throw" and "Bean Bag Toss" raffles are amusement games, and the Ducks Unlimited did not have an amusement game license, in violation of RCW 9.46.160.
- 11) The licensee offered and awarded liquor as a raffle prize at their raffle in Seattle on October 1, 2009, in Everett on September 16, 2010, and at their raffle in Stanwood on February 17, 2011, in violation of WAC 230-06-020.
- 12) At the Stanwood and Everett Chapter's raffles, the licensee held raffles called "Sponsor Raffles" in which each ticket exceeded the \$100 limit. Each raffle ticket cost \$250, in violation of RCW 9.46.0277 and WAC 230-11-014.

13) At the Stanwood Chapter event on February 17, 2011, a "Balloon Pop Raffle" was held. The "Balloon Pop Raffle" consists of a slip of paper that is inserted in a random balloon and the winner is revealed after all the balloons are popped. This is not an authorized alternative drawing format, in violation of WAC 230-11-055.

14) At the raffle for the Stanwood Chapter on February 17, 2011, the "Early Bird Raffle" allowed the participants, who prepaid for their dinner, to receive a free raffle ticket for a drawing for two \$100 "Mug" raffle ticket packages, in violation of WAC 230-11-030 (4)(c).

15) For Ducks Unlimited Stanwood Chapter's raffle event, the licensee failed to complete records in the required format, and an alternative drawing format was used to determine the raffle winners. The licensee also failed to retain validated deposit slips, all winning tickets, the required information for all winners of a prize with a fair market value of prizes over \$50, all unsold raffle tickets for raffles with gross receipts over \$5,000, invoices and other documentation recording purchase or receipt of prizes, and invoices recording the purchase of tickets and other expenses of the raffle. The licensee further failed to complete the raffle records within thirty days following the drawing, in violation WAC 230-11-050 (2)(3)(a)(b)(c).

VIOLATIONS:

RCW 9.46.075 Denial, suspension, or revocation of 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.

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

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.

(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 9.46.160 Conducting activity without license.

Any person who conducts any activity for which a license is required by this chapter, or by rule of the commission, without the required license issued by the commission shall be guilty of a class B felony. If any corporation conducts any activity for which a license is required by this chapter, or by rule of the commission, without the required license issued by the commission, it may be punished by forfeiture of its corporate charter, in addition to the other penalties set forth in this section.

The "Dart Throw" and "Bean Bag Toss" raffles are amusement games and the Ducks Unlimited did not have an amusement game license, in violation of RCW 9.46.160. Therefore, grounds exist to suspend or revoke the license issued to Ducks Unlimited under RCW 9.46.075 (1) and (8) and WAC 230-03-085 (1) and (8).

RCW 9.46.170 False or misleading entries or statements, refusal to produce records.

Whoever, in any application for a license or in any book or record required to be maintained by the commission or in any report required to be submitted to the commission, shall make any false or misleading statement, or make any false or misleading entry or willfully fail to maintain or make any entry required to be maintained or made, or who willfully refuses to produce for inspection by the commission, or its designee, any book, record, or document required to be maintained or made by federal or state law, shall be guilty of a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021.

Agents sent two letters and an e-mail requesting records for raffles conducted between February 26, 2009 and February 25, 2010. Agents also verbally requested the records. Most of the records, including raffle records, bank statements, check registers, unsold raffle tickets, and deposit slips were never produced, in violation of RCW 9.46.170. Therefore, grounds exist to suspend or revoke the license issued to Ducks Unlimited under RCW 9.46.075 (1) and (8) and WAC 230-03-085 (1) and (8).

WAC 230-06-020 Restrictions on alcohol as prizes.

Licensees must not offer or award beverages that contain alcohol as a prize or in place of a prize for any gambling activity except:

- (1) Dice or coin contests for music, food, or beverage payment as authorized by RCW 9.46.0305; and
- (2) Unlicensed members-only raffles authorized by RCW 9.46.0315, but only if the liquor control board granted the appropriate permit; and
- (3) Other gambling activities where the liquor control board has authorized alcohol as a prize.

The licensee offered and awarded liquor as a raffle prize at raffles held in Seattle on October 1, 2009, in Everett on September 16, 2010, and in Stanwood on February 17, 2011, in violation of WAC 230-06-020. Therefore, grounds exist to suspend or revoke the license issued to Ducks Unlimited under RCW 9.46.075 (1) and (8) and WAC 230-03-085 (1) and (8).

WAC 230-07-060 Independent management structure required.

(1) Charitable or nonprofit organizations and their officers or board of directors have an affirmative responsibility to conduct gambling activities according to the legislative intent in chapter 9.46 RCW.

(2) Organizations must develop and maintain an independent management control system that ensures they:

- (b) Supervise and operate gambling activities according to gambling laws and our rules; and
- (c) Protect all assets of the organization from misuse or embezzlement; and
- (d) Use gambling proceeds solely to advance the purposes of their organization.

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.

(1) Licensees must:

- (a) Keep a separate gambling receipts account(s) in a recognized Washington state bank, mutual savings bank, or credit union; and
- (b) Deposit only gambling receipts into that account. Licensees may deposit receipts from nongambling activities operated in conjunction with bingo games into the gambling receipts account if the licensee keeps detailed receipting records of the nongambling receipts; and
- (c) Deposit all gambling receipts first into the account before spending or transferring them into other accounts, except for prize pay outs; and
- (e) Make all deposits of net gambling receipts from each activity separately from all other deposits, and keep the validated deposit receipt as a part of their records. Deposit receipts are a part of the applicable daily or monthly records and licensees must make them available for our inspection; and
- (f) Deposit all net gambling receipts which they are holding, pending pay out:
 - (ii) From raffles (Class E and above) and amusement games (Class D and above), at least once each week; and

The licensee failed to establish controls and accounting procedures necessary to determine gross gambling receipts, in violation of WAC 230-07-060. Ducks Unlimited did not have a separate gambling receipts bank account(s) to deposit the raffle gross receipts, no validated deposit slips were retained, invoices were not provided for raffle prizes and raffle ticket purchases, raffle records were not completed within thirty days, and they failed to retain raffle records for three years. According to Regional Director, John Tierney, the licensee does not maintain a separate gambling account(s), in violation of WAC 230-07-090.

Therefore, grounds exist to suspend or revoke the license issued to Ducks Unlimited under RCW 9.46.075 (1) and (8) and WAC 230-03-085 (1) and (8).

WAC 230-07-130 Additional recordkeeping for charitable or nonprofit licensees.

(1) Charitable or nonprofit licensees, except agricultural fairs, must maintain records which clearly show how the licensee used or disbursed the funds from each licensed activity. These records must provide an audit trail satisfactory for us to verify that the funds were used for the licensees' stated purpose(s). These records must include, at least, canceled checks for the disbursements.

(2) Charitable or nonprofit licensees must keep these records for three years from the end of the license year for which the record was created.

None of the raffle records produced by the licensee provided a satisfactory audit trail to verify that the licensee used the funds for the organization's stated purpose, in violation of WAC 230-07-130. Therefore, grounds exist to suspend or revoke the license issued to Ducks Unlimited under RCW 9.46.075 (1) and (8) and WAC 230-03-085 (1) and (8).

RCW 9.46.0277 Raffle.

"Raffle," as used in this chapter, means a game in which tickets bearing an individual number are sold for not more than one hundred dollars each and in which a prize or prizes are awarded on the basis of a drawing from the tickets by the person or persons conducting the game, when the game is conducted by a bona fide charitable or nonprofit organization, no person other than a bona fide member of the organization takes any part in the management or operation of the game, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting the game.

WAC 230-11-014 Maximum raffle ticket price.

Raffle tickets must not be sold for more than one hundred dollars each.

At the Stanwood and Everett raffle events, the licensee held raffles called "Sponsor Raffles" in which each ticket cost \$250, in violation of RCW 9.46.0277 and WAC 230-11-014. Therefore, grounds exist to suspend or revoke the license issued to Ducks Unlimited under RCW 9.46.075 (1) and (8) and WAC 230-03-085 (1) and (8).

WAC 230-11-030 Restrictions on ticket sales.

- (4) Organizations must not:
- (c) Give away raffle tickets;

The licensee allowed the participants, who prepaid for their dinner, to receive a free raffle ticket for a drawing for two \$100 "Mug" raffle ticket packages, in violation of WAC 230-11-030. Therefore, grounds exist to suspend or revoke the license issued to Ducks Unlimited under RCW 9.46.075 (1) and (8) and WAC 230-03-085 (1) and (8).

WAC 230-11-050 Using alternative drawing formats.

Licensees may use alternative drawing formats that randomly determine winners if licensees:

- (2) Maintain a copy of the disclosure with the permanent raffle records; and

(3) Use controls and accounting procedures that:

- (a) Provide the ability to audit gross gambling receipts from ticket sales; and
- (b) Have sufficient controls to prevent manipulation of the random selection process; and
- (c) Document the random selection process.

The licensee did not maintain a copy of the disclosure of the alternative drawing format with their permanent raffle records, in violation of WAC 230-11-050. Therefore, grounds exist to suspend or revoke the license issued to Ducks Unlimited under RCW 9.46.075 (1) and (8) and WAC 230-03-085 (1) and (8).

WAC 230-11-055 Authorized alternative drawing formats.

Licensees may use the following types of alternative drawing formats or similar random selection processes:

Mock races.

(1) The licensee sells participants consecutively numbered tickets that identify a specific corresponding numbered mock animal(s), ball(s), or other similar object(s) that can use natural elements to move the objects (water, gravity, wind) in a race. All objects must be identical in weight, size, and shape, to have an equal opportunity to win. The licensee must release all objects simultaneously at a start line. The first numbered object to cross the finish line wins.

Poker runs.

(2) The licensee sells participants consecutively numbered tickets or poker tally sheets to participants. Participants travel a predetermined course with predetermined drawing stations (typically five drawing stations). At each drawing station, participants draw one playing card for each ticket purchased. Station attendants must verify the card drawn and record the card value on the poker ticket tally sheet. After all participants have completed the course, the participant with the best recorded poker hand wins.

Ball drops.

(3) The licensee sells participants consecutively numbered tickets that identify a specific corresponding numbered ball. All balls must be equal in size, weight, and shape, to have an equal opportunity to win. The licensee suspends all purchased numbered balls in the air and simultaneously releases them over a target zone. The ball, closest or first, to hit the predetermined target wins.

Animal plops.

(4) The licensee sells participants consecutively numbered tickets that identify a specific corresponding square on a numbered grid. The licensee releases the animal into the grid area until the animal has completed its plop. The numbered square containing the plop wins.

Multiple stage drawings.

(5) The licensee sells participants consecutively numbered tickets. The licensee uses multiple drawing phases to eliminate participants until the licensee declares the remaining ticket holder(s) the winner(s).

The licensee may use second element of chance plans as long as the plans meet the criteria set out in WAC 230-11-060.

Bucket raffles.

(6) The licensee sells participants consecutively numbered tickets. Participants place their tickets into any number of separate buckets or other receptacles for separate prizes. We consider the multiple drawings one single raffle. If licensees use different tickets for each receptacle, we consider each drawing an individual raffle.

Calendar raffles.

(7) The licensee sells participants consecutively numbered calendars with removable stubs. The licensee places all sold calendar stubs into the drawing receptacle. On predetermined dates identified on the calendar, the licensee conducts drawings. The licensee places all winning stubs back into the drawing receptacle for future drawings.

The licensee held a "Balloon Pop Raffle," which is not an authorized alternative drawing format, in violation of WAC 230-11-055. Therefore, grounds exist to suspend or revoke the license issued to Ducks Unlimited under RCW 9.46.075 (1) and (8) and WAC 230-03-085 (1) and (8).

WAC 230-11-100 Recordkeeping requirements for Class E and F licensees and raffles using alternative drawing formats.

Licensees conducting Class E or Class F raffles or conducting raffles using alternative drawing formats must prepare a detailed record for each raffle they conduct. Licensees must:

- (1) Record all data required in the standard format we provide; and
- (2) Maintain the following:
 - (a) Validated deposit receipts for each deposit of raffle proceeds; and
 - (b) All winning tickets; and
 - (c) Name, address, and telephone number of all winners of a prize with a fair market value of more than fifty dollars; and
 - (e) All unsold tickets for individual raffles for which gross gambling receipts exceed five thousand dollars; and
 - (f) Invoices and other documentation recording the purchase or receipt of prizes; and
 - (g) Invoices and other documentation recording the purchase of tickets and other expenses of the raffle; and
- (3) Complete all records no later than thirty days following the drawing.

For Ducks Unlimited Stanwood Chapter's raffle event, an alternative drawing format was used to determine the raffle winners. The licensee did not maintain a copy of the disclosure of the alternative drawing format with their permanent raffle records. By not maintaining records in our required standard format, the agent was unable to audit gross gambling receipts from ticket sales, in violation of WAC 230-11-055. Therefore, grounds exist to suspend or revoke the license issued to Ducks Unlimited under RCW 9.46.075 (1) and (8) and WAC 230-03-085 (1) and (8).

WAC 230-11-105 Retain and store raffle records.

(2) Records for licensed raffles must be kept for three years from the end of the licensees' fiscal year in which the raffle was completed.

(3) Organizations must keep all records at the main administrative or business office of all organizations that are located in Washington and have the records available for our review or audit.

The raffle records for the 2009/2010 license year for Everett, Edmonds, La Conner, and Stanwood Ducks Unlimited Chapters were not provided or available for review, in violation of WAC 230-11-105. Therefore grounds to exist to suspend or revoke the license issued to Ducks Unlimited under RCW 9.46.075 (1) and (8) and WAC 230-03-085 (1) 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.

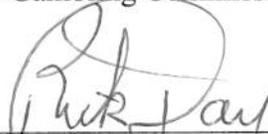
The licensee will have the opportunity to have a hearing on the alleged violations.

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 a request for hearing will result in the entry of a default order SUSPEND your license for 30 days.

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, DIRECTOR

SUBSCRIBED AND SWORN TO before me
this 4 day of April, 2012.



NOTARY PUBLIC in and for the State of
Washington residing at Thurston County
My commission expires on December 2, 2015

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 4 day of April, 2012



Communications and Legal Department
Washington State Gambling Commission

