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GAMBLING COMMISSION STATE OF WASHINGTON  
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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

**SETTLEMENT ORDER**

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OAH - Tacoma

This Settlement Order is entered into between the Washington State Gambling Commission and Ducks Unlimited. Stephanie U. Happold, Assistant Attorney General, and Melinda Froud, Staff Attorney, represent the Commission. Steve Thies, President, represents the licensee.

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.

In the above-entitled case, the Gambling Commission issued a Notice of Administrative Charges and Opportunity for an Adjudicative Hearing on, April 4, 2012, seeking the suspension or revocation of Ducks Unlimited license to conduct gambling activities. On April 19, 2012, Commission staff received the licensee's request for a hearing. The following summary of facts and violations were alleged in the Notice of Administrative Charges:

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 licensee, 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.

## **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).

III.

The licensee acknowledges that it received the Notice of Administrative Charges issued in this case, and understands the facts and violations contained in it.

The licensee has waived its right to a hearing, based on the terms and conditions of this Settlement Order and agrees to the following terms and sanctions:

- 1) The licensee's gambling license is suspended for a period of fifteen **(15) days**, provided that:
  - a) **Five (5) days** of the suspension shall not be currently served, but shall be deferred for one year, subject to the following: The licensee agrees not to violate the terms of this Settlement Order, or any of Washington's gambling statutes or regulations during the deferral period.
  - b) If the licensee violates this Settlement Order or gambling statutes or regulations, and if the violation is the type that warrants the filing of administrative or criminal charges, then the Director may impose the five-day deferred suspension of the current gambling license and any subsequently acquired gambling licenses.
  - c) The parties agree that the Director of the Washington State Gambling Commission, pursuant to this agreement, has discretion to determine whether the licensee has violated any term of this agreement. In the event the Director determines that a violation of this agreement has occurred, he may suspend the license(s) issued to the licensee for up to five days, by mailing or delivering a Notice of Order of Administrative Charges to the licensee. In addition to the consequences of the new violation, the deferred sentence shall also be served. The licensee shall be afforded the opportunity to have an Adjudicative Proceeding, which includes a hearing on the alleged violations.
- 2) **The licensee has chosen to serve the remaining ten (10) days of the suspension.**
  - i. **The suspension period begins at 8:00 a.m. on August 17, 2012, and runs through August 27, 2012.**
  - ii. During this period of suspension, the licensee shall not conduct any gambling activities within the Washington State.
  - iii. The licensee may resume its gambling activities at 8:00 a.m. on August 28, 2012.
- 3) **For the next year, the licensee must provide a list to Commission staff for all of its gambling activities in Washington State thirty days prior to the start of each quarter. The last list shall be due on June 1, 2013. The list shall be sent to:**  
**Washington State Gambling Commission, 3501 Colby Avenue, Suite 102, Everett, WA 98201.** The list should include, but not be limited to:
  - i. A list of all licensed raffle events, including the date, place and time of the event;
  - ii. A contact person for each event; and
  - iii. A contact phone number.
- 4) The licensee will prepare and retain all required records for each raffle event held.
- 5) The licensee will follow all gambling rules and regulations for each raffle event held.

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6) The licensee shall reimburse the Commission for the costs incurred in conducting a follow up inspection of the licensee within thirty (30) days after receiving notice of the costs of such inspection. The inspection shall be made within six (6) months after the entry of this Order; this will allow the licensee additional time to ensure that it is complying with state gambling laws and rules.

7) **The signed Settlement Order must be received by Commission staff on or before June 26, 2012, and mailed to Commission Headquarters at the following address:**

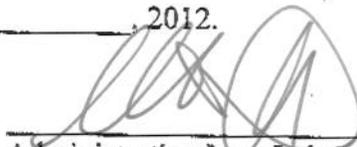
Washington State Gambling Commission  
Attention: Communications and Legal Division  
P.O. Box 42400  
Olympia, WA 98504-2400

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or **delivered** (in person or via private courier) to the following address:

Attention: Communications and Legal Division – Fines  
4565 7<sup>th</sup> Avenue SE; Third Floor  
Lacey, WA 98503

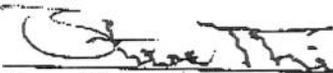
DATED this 16<sup>th</sup> day of July, 2012.

  
Administrative Law Judge  
CHARLES BRYANT

APPROVED FOR ENTRY:

APPROVED AS TO FORM:

By signing this Settlement Order, the licensee acknowledges and understands the terms and conditions contained in it.

  
Date 6-25-12  
Steve Thies, President  
Ducks Unlimited

  
Date 7/5/12  
Stephanie U. Happold, #38112  
Assistant Attorney General,  
Representing the Washington  
State Gambling Commission

  
Melinda A. Froud, WSBA #26792  
Lead Staff Attorney,  
Washington State Gambling Commission