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**GAMBLING COMMISSION
COMM & LEGAL DEPT**

STATE OF WASHINGTON
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**GAMBLING COMMISSION
COMM & LEGAL DIVISION**

In the Matter of the Suspension or Revocation of)
the Licenses to Conduct Gambling Activities of:) NO. CR 2011-01376
))
Fraternal Order of Eagles, Auxiliary 03338) **SETTLEMENT ORDER**
Ephrata, Washington,))
))
Licensee.))
_____)

The Washington State Gambling Commission and the licensee, Fraternal Order of Eagles, Auxiliary 03338, have entered into this Settlement Order to resolve the administrative charges pending against the licensee. Stephanie U. Happold, Assistant Attorney General, and Melinda Froud, Staff Attorney, represent the Commission. Kathryn Rose, Auxiliary President, represents the licensee.

I.

The Washington State Gambling Commission issued Fraternal Order of Eagles Auxiliary 03338, Organization Number 00-04310, 1145 Basin Street SW, Ephrata, the following licenses:

Number 01-01661, Authorizing Class "D" Bingo Activity; and
Number 02-01440, Authorizing Class "A" Raffle Activity.

These licenses, which expire on May 27, 2012, were issued subject to the licensee's compliance with state gambling laws and regulations.

II.

In the above-entitled case, the Gambling Commission issued a Notice of Administrative Charges and Opportunity for an Adjudicative Hearing on, February 24, 2012, seeking the suspension or revocation of Fraternal Order of Eagles Auxiliary 03338's licenses to conduct gambling activities. On March 1, 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:

SUMMARY:

The licensee failed to protect their assets, operated their bingo games using related parties, which resulted in inadequate management control structure, and failed to follow their own initialing requirements designed to protect their assets. The licensee had been warned in the past regarding the requirements of independent management control structures.

VIOLATIONS:

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 it 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.

(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.

The licensee has received previous warnings about its lack of internal controls and having family members perform accounting functions. The licensee has demonstrated willful disregard of gambling rules by their repeated failure to implement adequate internal control procedures to protect their gambling assets. In addition, the licensee failed to take appropriate steps to correct previously noted weaknesses in their management control structure to eliminate possible conflicts of interest. They also failed to take corrective action with paid bingo workers playing and working in their bingo game. Therefore, the licensee poses a threat to the effective regulation of gambling and grounds exist to revoke its license under RCW 9.46.075(1), and (8), and WAC 230-03-085(1), (3) 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:

- (a) Create an operating environment that makes it possible to implement the policies of the officers or board of directors; and
- (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.

The licensee failed to follow or enforce their own bingo procedures. At least three bingo workers indicated that it was their procedure to have at least two employees count and initial the cash close-out sheet to verify the ending bingo cash. On at least five occasions, the cash close-out sheet was either not initialed or was only initialed by one employee. Ms. Peter, who responsible for reviewing the paperwork, made no attempt to have Ms. Segura correct this issue.

The licensee failed to develop and maintain an independent management control system to ensure accountability when it allowed family members to operate bingo games, in violation of WAC 230-07-060. The primary bingo workers during the review period included: Kim Segura, Brittany Barnes, daughter in-law of Ms. Segura, Dolores Tritle, mother of Ms. Segura, and Marina Johnson, Ms. Segura's sister in-law. Additional relatives were identified as working the game but not during the review period. The licensee was previously warned in 2008 about family members conducting pull-tab activity.

Because of the lack of independent management control structure and the lack of board policies, procedures, and general oversight, the licensee failed to protect organizational assets. At least \$608 of the licensee's bingo proceeds has been identified as missing or stolen. Therefore, grounds exist to suspend or revoke the licenses issued to FOE Aux # 03338 under RCW 9.46.075 (1), and (8), and WAC 230-03-085(1), (3) and (8).

WAC 230-07-075 Conflicts of interest

(1) Charitable or nonprofit organizations have an independent operating environment when their officers or board members and supervisory level employees have completely separated their personal interests from the interests of the organization.

(2) Individual officers or board members acknowledge potential conflicts of interest and abstain from voting on issues that directly or indirectly affect their personal interest, the organization is operating independently.

(3) The governing board of the organization must review any potential conflicts of interest involving supervisory level employees. They must record all discussions or balloting regarding potential conflicts of interest in the official meeting minutes.

(4) We will presume organizations lack an independent operating environment if the governing board fails to approve and document in the official meeting minutes any of the following by the officers, board members, or supervisory level employees:

- (a) Receiving, directly or indirectly, financial or personal benefit from the organization or share in gambling proceeds of the organization; or
- (b) Supervising, directly or indirectly, or having decision-making authority over transactions that may result in direct or indirect financial or personal benefit to:
 - (i) Their direct relatives; or
 - (ii) Persons with whom they maintain a common household; or
 - (iii) Persons with whom they have a business relationship; or
- (c) Allowing others, directly or, through lack of action, indirectly, to receive or share in the gambling proceeds of the organization.

WAC 230-07-070 Defining "direct relatives."

"Direct relative" means spouses, parents, grandparents, uncles, aunts, children, siblings, nieces, or nephews, whether by blood, adoption, or marriage

During the period reviewed, Kim Segura, primary bingo manager, was in charge of FOE Aux. #3338 bingo activity. Ms. Segura was responsible for supervising her direct relatives, who were also involved with bingo activities: Dolorces Tritle, her mother; ^{MARIE G. M.P.H.R.} Miranda Johnson, her sister in-law; and Brittany Barnes, her daughter in-law, in violation of WAC 230-07-075. The licensee was previously warned about using all relatives to operate their pull-tab games. Therefore, grounds exist to suspend or revoke the licenses issued to FOE Aux under RCW 9.46.075 (1), and (8) and WAC 230-03-085 (1), (3) and (8).

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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 non-gambling activities operated in conjunction with bingo games into the gambling receipts account if the licensee keeps detailed receipting records of the non-gambling 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
- (c) 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:
 - (i) From bingo, no later than the second banking day after they receive them. Licensees may withhold bingo receipts from deposits for "jar," "pig," or other special game prizes if the total of all such prize funds does not exceed two hundred dollars, enter the amount withheld each session in the bingo daily record, and record the reconciliation of the special game fund on the bingo daily record. "Reconcile" means the licensee must compare the two balances, resolve any differences, and document the comparison and the differences in writing. Licensees must keep the reconciliation as part of their records.

The licensee, on at least one occasion, allowed the bingo manager to pay herself in cash from bingo proceeds. In addition, the records indicate the bingo manager wrote out payroll checks each bingo session to each bingo worker including herself, in violation of WAC 230-07-090. The three paid bingo workers, including the bingo manager, exchanged their bingo checks for cash from the bingo proceeds. Therefore, grounds exist to suspend or revoke the licenses issued to FOE Aux # 03338 under RCW 9.46.075 (1), and (8), and WAC 230-03-085(1), (3) and (8).

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.

The investigation shows Kim Segura, the primary bingo manager, failed to have sufficient knowledge to adequately oversee the licensee's bingo activity, in violation of WAC 230-07-115. Specifically Ms. Segura did not understand how to complete bingo session summary records to ensure all funds were properly accounted for. Ms. Segura admitted that she would sometimes rely on Ms. Peter to complete or correct the daily reconciliation portion of the bingo paperwork. She also said she didn't understand the corrections made by Ms. Peter. Ms. Peter said she had tried to explain how to properly complete the form, but Ms. Segura continued to make the same mistakes. In addition, Ms. Segura failed to have procedures followed to protect the bingo proceeds.

Ms. Segura was not knowledgeable of the laws and rules that relate to the operation of the gambling activities and ensure all records were completed and correct, and all that all funds were used solely to further the charitable or nonprofit purposes of the organization. She also failed to protect the organization from players or workers committing illegal acts, and protect all gambling assets for the organization from misuse or theft. Therefore, grounds exist to suspend or revoke the licenses issued to FOE Aux # 03338 under RCW 9.46.075 (1), and (8) and WAC 230-03-085 (1), (3), and (8).

WAC 230-10-090 Workers not playing in Class D and above bingo games.

(The following subsections apply.)

(1) Class D and above bingo licensees must not allow persons who participate in operating or managing their bingo games to play in any of their bingo games.

(2) Persons who work without compensation for Class D and above licensees may play bingo, but they must not play during bingo sessions they are operating or managing.

The licensee allowed paid bingo workers to play in their bingo game. Specifically Donna Clough, and Dolores Tritle, both identified as paid bingo workers, played bingo during occasions they were paid to work, in violation of WAC 230-10-090. On one occasion Ms. Tritle, although was not identified as being paid, had her initials on the ending bingo cash close out sheet. On the same occasion, Ms. Tritle's name appeared as the winner on at least three bingo prize receipts. The licensee was previously informed that only volunteers could play in the bingo game, and then only on occasions they did not work. Therefore, grounds exist to suspend or revoke the licenses issued to FOE Aux under RCW 9.46.075 (1) and (8), and WAC 230-03-085 (1), (3) and (8).

WAC 230-10-335 Bingo daily records.

(The following subsections apply.)

Bingo licensees must prepare detailed records for each bingo session during that session in the format we require. Daily records must include, at least:

(5) The gross gambling receipts collected for each separate type of sale, of any kind, for bingo games including, but not limited to, regular games, early bird games, blackout games, special games, or pickup games. Licensees using the combination receipting method for bingo income

must reconcile the extended value of all disposable cards, packets of cards, and electronically generated cards sold to the amount of sales recorded per the cash register; and

(7) The net gambling receipts from each bingo session; and

(8) The cash on hand at the beginning and the end of each session; and

(9) A reconciliation of cash on hand, net gambling receipts, and the bank deposit of net revenue for each session. Licensees must include a validated copy of the bank deposit receipt. Licensees must document all steps taken to reconcile overages or shortages of more than twenty dollars for any session.

To ensure that bingo licensees meet the intent of RCW 9.46.010 and provide adequate funds to promote charitable and nonprofit programs, bingo licensees must not allow their bingo operation to award excessive prizes or pay excessive expenses. The governing board of the organization must specifically approve all capital expenditures for the bingo operation that exceed six thousand dollars.

The licensee, on several occasions, failed to accurately and sufficiently complete their daily bingo records as required. Specifically, the agent identified at least six shortages in excess of \$20. On at least one bingo occasion, August 9th, the licensee failed to provide a completed bingo session summary including a reconciliation of cash on hand.

On July 9, 2011, the licensee failed to reduce a \$200 accrued prize payout to their accrual total, which overstated the accrual ending balance. And, on July 16, 2011, the licensee showed some very creative accounting for a \$180, accrual payout which caused an error on the final accrual balance for the session. Therefore, grounds exist to suspend or revoke the licenses issued to FOE Aux # 03338 under RCW 9.46.075 (1) and (8), and WAC 230-03-085 (1), (3) and (8).

RCW 9.46.153 Applicant and licensees – Responsibilities and duties.

(The following subsections apply.)

(1) 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;

(3) All licensees, and persons having any interest in licensees, including but not limited to employees and agents of licensees, and other persons required to be qualified under this chapter or rules of the commission shall have a duty to inform the commission or its staff of any action or omission which they believe would constitute a violation of this chapter or rules adopted pursuant thereto. No person who so informs the commission or the staff shall be discriminated against by an applicant or licensee because of the supplying of such information.

The licensee failed to protect their assets, operated their bingo games using related parties, which resulted in inadequate management control structure, and failed to follow their own initialing

requirements designed to protect their assets. As a result, the licensee had a loss of at least \$608 in gambling receipts. The licensee had been warned in the past regarding the requirements of independent management control structures.

Therefore, grounds exist to suspend or revoke the licenses issued to Fraternal Order of Eagles Auxiliary 03338 under RCW 9.46.075 (1) and (8), and WAC 230-03-085 (1), (3) and (8).

III.

The facts and violations set forth in paragraph II above constitute grounds for the suspension or revocation of the licenses issued to Fraternal Order of Eagles Auxiliary 03338 pursuant to RCW 9.46.075 and WAC 230-03-085.

IV.

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

On March 1, 2012, Commission staff received Fraternal Order of Eagles Auxiliary 03338's request for a hearing in this matter; however, the licensee has waived its right to a hearing, based on the terms and conditions of this Settlement Order.

The licensee agrees to the following terms and sanctions:

1) Fraternal Order of Eagles Auxiliary 03338's licenses are suspended for **five (5) days**, provided that:

- a) **One (1) day** of the suspension shall not be currently served, but shall be deferred for a period of one year from the date of entry of this Settlement Order, subject to the following: The licensee agrees not to violate any of Washington's gambling statutes or regulations during the one (1) year term. If the licensee violates these 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 **one-day suspension** of the current gambling license(s) and any subsequently acquired gambling licenses.
- b) The parties agree that the Director of the Washington State Gambling Commission has discretion to determine whether the licensee has violated any term of this Settlement Order. In the event the Director determines that a violation of this section has occurred, he may suspend the license(s) issued to the licensee, and any subsequently acquired licenses, for up to **one (1) day**, by mailing or delivering a Notice of Order of Administrative Charges to the licensee. This suspension shall be in addition to any consequences of the new violation. The licensee shall have the opportunity for an Adjudicative Proceeding, which includes a hearing on the alleged violations.

III

III

2) The licensee has chosen to serve the remaining four (4) days of the suspension. The suspension will be served during four consecutive bingo sessions scheduled for April 24, 2012, April 28, 2012, May 1, 2012, and May 5, 2012. During these suspension dates, no gambling activities shall take place at the licensed premises.

3) The licensee no longer employs Kim Segura, ^{Miranda Johnson} or Brittany Barnes to perform bingo duties. The licensee further agrees to the following policies and procedures, which will help it comply with state laws and Commission rules:

- a) Veda Peter shall not have any involvement with the licensee's gambling activities, including bingo and raffle activities. The licensee must make a written request for approval from the Director of the Gambling Commission prior to allowing Veda Peter to have any future involvement with the licensee's gambling activities.
- b) The licensee agrees to develop, maintain, and follow a written independent management control system, including the proper segregation of duties, to ensure that all gambling assets are protected from misuse or theft, as provided in WAC 230-12-078.
- c) No direct relatives, as defined by WAC 230-07-070, shall perform bingo duties.
- d) Bingo cash handling procedures shall include a record showing the opening and closing cash counts. This record will be signed by two bingo workers verifying the bingo cash received and turned in each bingo session.
- e) A member of the organization who does not work at its bingo game and is not related to a person working at its bingo game shall review the licensee's bingo records. This individual shall review completed bingo records for accuracy and completeness, including matching receipting records to the bingo summary, as well as verifying ending cash, deposits, and bingo expenses. The person performing these independent reviews shall report to the Board of Trustees at least monthly regarding any discrepancies, overages/shortages, and the overall profitability of the bingo activity.
- f) The organization shall maintain payroll records for each paid bingo worker. This shall include a time card or work schedule signed by both the bingo manager and bingo employee to verify work dates and times.
- g) All bingo workers shall be paid by check. Bingo payroll checks must be signed by two people. Bingo payroll checks shall not be signed by any individual who is a bingo worker for the organization. Bingo payroll checks shall not be cashed at the bingo game.
- h) On a monthly basis, the Board of Trustees must review the summary of the licensee's bingo activity. At a minimum, this includes bingo gross receipts, prizes paid, overages/shortages, deposits, and expenses. The Board shall be responsible for implementing and enforcing their internal control procedures and taking necessary action to correct deficiencies.

Miranda Johnson *Seg 4/13/12* *4/24/12*

- i) The licensee's bingo workers shall not play the licensee's bingo games while they are working.
 - j) Cash overages or shortages in excess of twenty dollars shall have a detailed written explanation on the licensee's efforts to determine the source of the discrepancy.
 - k) The licensee shall have a bingo manager who is responsible for knowing bingo rules and regulations and how to properly complete all required bingo forms.
 - l) The bingo manager shall be responsible for completing and signing the bingo session summary form at the end of each bingo session. Any changes made to a bingo form will be initialed by the person making the change.
 - m) The organization must follow all bingo rules and regulations.
- 4) The licensee will distribute a copy of this Settlement Order to every present and future Board member and gambling manager for the next five (5) years.
- 5) The licensee shall reimburse the Commission for the costs incurred in conducting a follow up inspection of the licensee's bingo operations and accounting procedures within thirty (30) days after receiving notice of the costs of such inspection. The inspection shall be made no earlier than six months after the entry of this order; this will allow the licensee additional time to ensure that it has implemented any necessary internal controls, policies and procedures.

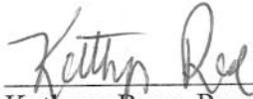
DATED this 20th day of April, 2012.



Administrative Law Judge

APPROVED FOR ENTRY:

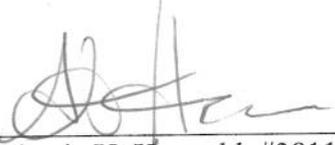
By signing this Settlement Order, the licensee acknowledges and understands the terms and conditions contained in it.



Kathryn Rose, President
FOE Auxiliary 03338

Date 4-7-12

APPROVED AS TO FORM:

 4/13/12

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