

STATE OF WASHINGTON
GAMBLING COMMISSION

In the Matter of the Suspension of the)
Licenses to Conduct Gambling Activities of:)

No. CR 2012-00959

Fraternal Order of Eagles #02327)
Monroe, Washington,)

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

Licensee.)
_____)

I.

The Washington State Gambling Commission issued Fraternal Orders of Eagles (FOE) #02327, organization number 00-00467, the following licenses:

- Number 05-02498, authorizing class "C" Nonprofit Punchboard Pull-Tab activity;
- Number 08-00017, authorizing class "A" Combination License activity; and
- Number 60-00254, authorizing class "B" Special Card Room activity.

The licenses expire on June 30, 2013, and were 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:

The licensee's nonprofit manager did not safeguard funds and other assets directly deposited in the organizations bank account. The licensee also had multiple pull-tab violations.

FACTS:

1) On July 30, 2012, a Washington State Gambling Commission Special Agent (agent) started a pull-tab module compliance inspection at FOE #02327 (FOE). During the inspection, the agent found that in a game called "Let's Race," two \$80 winning prizes were only marked off the flare with removable "winner" stickers. The agent found the same violation in a game called "Camp Win-a-Buck," with two \$115 winning prizes, a game called "Shocker," with one \$200 winning prize, and in a game "SEA Fence," with one \$150 winning prize.

In all of these games, none of the prizes were deleted by a permanent method, as required, such as a pen or marker. This means that customers would be buying pull-tabs in an attempt to win a

prize that had already been won. The agent mentioned the above violations to bartender, Georgia Perkins. Ms. Perkins stated that they had just recently been told to permanently delete the winning prizes from flares by another Special Agent.

2) The agent also completed a Punchboard/Pull-Tab inventory test for the time period of July 1, 2012 to July 30, 2012. The agent physically counted the pull-tab games that were in the unplayed inventory and counted 13 games. The agent calculated that the expected unplayed inventory should have been one game according to the licensee's gambling records.

3) On August 14, 2012, the agent met with the gambling manager, James Evans, to discuss the material difference in the inventory test he completed. The agent explained the difference between the actual unplayed inventory and the expected inventory per gaming records. The Punchboard/Pull-Tab Quarterly Activity Report (QAR) for April-June 2012 was filled out and submitted by Mr. Evans. Mr. Evans stated he knew how to fill out the report and just figured the number on the QAR for October-December 2011 in the section concerning games on hand was accurate, so he used that number. The agent discussed with Mr. Evans how to properly fill out the "Inventory" section of the QAR. Mr. Evans stated he would make sure the next QAR was accurate.

4) The agent reviewed deposit slips for the period of January 1, 2012 through July 30, 2012. The licensee failed to record the Washington State identification number for each pull-tab game on the deposit slips. The agent informed Mr. Evans of the deposit slips missing the identification number. Mr. Evans stated that he was not aware of the deposit slips missing the numbers. The agent asked Mr. Evans who was responsible for ensuring the money was deposited in the bank. Mr. Evans stated he was the one who made the bank deposits.

5) The agent reconciled the bank deposits to the actual cash reported on the monthly income summaries for the period of January 1, 2012 through July 30, 2012. According to the monthly income summaries, the following pull-tab games were removed from play on the following dates:

Game name	WSGC ID stamp #	Date removed from play	Date deposited	Days late
"Wild West"	02421183	03/01/2012	03/06/2012	1 day
"Hissy Fit"	36587697	06/21/2012	06/27/2012	2 days
"Nine Ball"	02470250	06/21/2012	06/27/2012	2 days
"Lucky Draw"	36375710	06/22/2012	06/27/2012	1 day

The agent determined that deposits for four of the games were late. All gambling receipts are required to be deposited within two banking days, excluding holidays and weekends. Mr. Evans stated he wasn't sure what happened, since he was the only one who deposited the money in the bank and always made deposits on Monday, Wednesday, and Friday.

6) The agent reconciled the bank deposits and gambling bank account to actual cash reported on the monthly income summary for the period of January 1, 2012 through July 30, 2012. All

actual cash is required to be deposited and written down on a deposit slip. The licensee failed to deposit the following amounts:

Game name	WSGC ID stamp #	Date removed from play	Total amount that should have been deposited
"Snaps Bingo"	02384657	02/21/2012	\$131.00
"Kill Dill"	36938397	06/09/2012	\$146.00

The agent spoke with Michol Phillips, Chairman of the Board, about the missing deposits. The agent told Ms. Phillips that all actual cash was required to be written down on a deposit receipt and deposited. Ms. Phillips stated that she was not sure what happened to the money. The agent spoke to Mr. Evans and told him that the receipts totaling \$277 from two games ("Snaps Bingo" and "Kill Dill") were unaccounted for. Mr. Evans said he was not sure what happened to the \$277, as he was the one who made all of the bank deposits.

7) The agent examined the four pull-tab games removed from play and compared the audit to the monthly income summary records prepared by the licensee. One of these games had a material difference in regards to the amount of played pull-tabs. Per the audit, the game "Kill Dill" had 1,127 pull-tabs played. According to the licensee's records the amount was 1,087. This shows they should have netted \$24.50 more from the game than they reported. Mr. Evans was unsure what happened.

8) While auditing the games, the agent also found that in the game "Kill Dill," one \$25 and two \$130 winning prizes were only marked off the flare with removable "winner" stickers. Similar violations occurred in the game "Burger and Beer," with one \$304 winning prize, and in the game "Shocker," with one \$200 winning prize.

9) In the game "Wild Hare," seven \$25 and three \$125 winning prizes were only marked off the flare with removable "winner" stickers. In this game, there were also three \$25 winning prizes that had not been marked off the flare in any manner. Also, several winning pull-tabs over \$20 only had one letter of the winner's first name printed on it instead of the entire first name.

10) On August 10, 2012, the agent spoke with Mr. Evans about what he did as the nonprofit gambling manager. Mr. Evans stated that around December 2011 he became the nonprofit gambling manager, as there had been no gambling manager for the three years prior. While attending a meeting with the board of trustees for the FOE #02327, Mr. Evans told the board he would volunteer to be the gambling manager if they were unable to find someone else. Due to no one else wanting the position, Mr. Evans took it. The agent asked if he was comfortable being the gambling manager. Mr. Evans said, there were "times when I think it's more than I can handle." He also added he was "getting more and more comfortable, though."

11) The agent advised Mr. Evans that it would be a good idea to double check the other people's work due to the fact that he was the gambling manager. Mr. Evans stated that he usually just took people's word for what they told him, without double checking himself. The agent advised

Mr. Evans that a gambling manager needs to be aware of everything that is going on in regards to the FOE's gambling activities.

12) The agent issued Mr. Evans verbal warnings for failure to have every winner print their name and date of birth on the winning pull-tabs over \$20 and for failure to permanently and conspicuously delete winning prizes over \$20 from flares.

ADMINISTRATIVE HISTORY:

FOE #02327 has held a Class C PB/PT license since 07/07/2009. The licensee has had two violations for failing to submit their activity report within 30 days. The disposition for both of these violations was a Notice of Violation and Settlement (NOVAS).¹

A Statement of Charges was issued in 2011 and settled in 2012 for failure to have a licensed charitable or nonprofit gambling manager. The licensee agreed to not violate the terms of the Settlement Order, or any of Washington's gambling statutes or regulations during the one year term; failure to do so would result in the Director imposing the one-day deferred suspension of the current gambling licenses. There are grounds to impose the deferred suspension day as a result of the licensee's new violations.

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 subsection applies.)

(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.

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 subsection applies.)

(1) Commits any act that constitutes grounds for denying, suspending, or revoking licenses or permits under RCW 9.46.075.

¹ A NOVAS is a Notice of Violation and Settlement identifies the violation and gives the licensee the opportunity to pay a fine to settle the matter.

WAC 230-14-284 Activity reports for punch board and pull-tab licensees.

Punch boards and pull-tab licensees must submit an activity report to the commission. Licensees must complete the report in the format we require and must:

(The following subsections apply.)

- (1) Cover the periods:
 - (a) January 1 through June 30; and
 - (b) July 1 through December 31; and
- (2) Be received at our administrative office or postmarked no later than thirty days following the end of the reporting period; and
- (3) Be signed by the licensee's highest ranking executive officer or a designee. If someone other than the punch board and pull-tab licensee or its employee prepares the report, then it must provide the preparer's name and business telephone number; and
- (4) Be filed even if they do not renew their license. They must file a report for the period between the previous report filed and the expiration date of the license; and
- (5) Unless they are also licensed for Class D or above bingo, charitable and nonprofit licensees must submit a semiannual activity report for punch boards and pull-tabs; and
- (6) Class D or above bingo licensees with a punch board and pull-tab license must report punch board and pull-tab activity, on the combined quarterly report provided by the commission as explained in WAC 230-10-331.

WAC 230-14-285 Monthly income summary.

(The following subsections 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.
- (2) Licensees may store punch board and pull-tab monthly records electronically if they:
 - (a) Retain all original input control documents supporting the electronic record; and
 - (b) Generate a monthly paper income summary that organizes the electronic record into the format we require.
- (c) Ensure that the income summary:
 - (i) Does not hinder our review of records; and
 - (ii) Is available for review no later than thirty days following the end of the month; and
 - (iii) Is available within three days of a request by us, local law enforcement, or local tax agencies.

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 subsections apply.)

- (1) Licensees must:
 - (f) Deposit all net gambling receipts, which they are holding, pending pay out:
 - (iii) From punchboard 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.
 - (g) Record the Washington state identification number assigned to the punchboard or pull-tab series and the amount of net gambling receipts on the deposit slip/receipt. Licensees may record the number and the receipts on a separate record if they record the bank validation number and maintain the record with the deposit slip/receipt.

WAC 230-07-115 Duties of charitable or nonprofit gambling managers.
Charitable or nonprofit gambling managers must:
(The following subsections apply.)

- (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
- (3) Ensure:
 - (c) All records are completed and correct
- (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 licensee's non-profit gambling manager failed to maintain accurate and complete gambling records and accurately and completely account for nonprofit gambling receipts. The licensee failed to maintain an accurate monthly income summary, which recorded 40 fewer played pull-tabs than the licensee's actual "Kill Dill" game, in violation of WAC 230-14-285. There were also deposits that did not contain the Washington State identification number for each pull-tab game on the deposit slip. Furthermore, there were receipts that failed to be deposited at all, and receipts that were deposited later than two days, in violation of WAC 230-07-090. This demonstrates that the gambling manager failed to prepare complete and correct records, and failed to safeguard assets, in violation of WAC 230-07-115. Additionally, the Quarterly Activity Report Inventory section for the second quarter of 2012 was completed incorrectly, in violation of WAC 230-14-284. Grounds, therefore, exist to suspend FOE #02327's license, pursuant to 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.

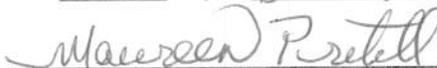
Based on RCW 34.05.440, failure to return a request for hearing will result in the entry of a default order SUSPENDING your license for 30 days.

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 21 day of December, 2012.


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



STATE OF WASHINGTON)
)
COUNTY OF THURSTON)

I certify I have this day served a copy of the document upon all parties of record in the proceeding by mailing a copy, property 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 24 day of December, 2012
