

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
WITHIN AND FOR SWEETWATER COUNTY, WYOMING**

The State of Wyoming ex rel. Joyce  
Corcoran,

Plaintiff,

vs.

Wyoming Best of the Best, et al.,

Defendants.

Docket No. C-17-34-L

FILED  
DISTRICT COURT  
THIRD JUDICIAL DISTRICT  
SWEETWATER COUNTY WY

DEC 01 2017

DONNA LEE BOBAK  
CLERK OF COURT  
BY \_\_\_\_\_  
DEPUTY CLERK

**Findings of Fact and Conclusions of Law**

THIS MATTER came before the Court for trial on October 3, 2017 on Plaintiff's Complaint seeking to enjoin a nuisance (illegal gambling) under Wyo. Stat. Ann. § 6-6-202; Plaintiff appeared in person and by and through counsel, Jamie M. Woolsey and Sarah Hanneken; Defendants appeared personally and by and through counsel, Robert A. Spence; and, the Court has considered the evidence presented, the arguments of counsel and is fully advised in the premises. The Court finds that the Complaint seeking to enjoin a nuisance should be granted in part and denied in part.

The Plaintiff in the lawsuit (Joyce Corcoran) is the Relator under Wyoming's nuisance statute (Wyo. Stat. Ann. § 6-6-202). Three of the Defendants (Mr. Cheese, Mr. Pecolar and Mr. Gillespie) are the organizers and operators of a coyote hunting contest (Wyoming Best of the Best) that is conducted in part in Sweetwater County, Wyoming. Defendant Wing Lew is the owner of the establishment (Buddha Bob's Bar at the Sands and Sands Hospitality Group, Inc.) where the registration, sign-up and payout events occur.

On September 5, 2017 the parties filed a Stipulation of Fact and Law that in pertinent part agreed:

1. Wyoming Best of the Best (WBOTB) has held qualifying coyote hunts around the state in designated circuits, as well as a State championship event each year since 2010.
2. Defendant Mark Gillespie is the chairman and secretary of WBOTB.

3. Defendant Ron Cheese is the treasurer of WBOTB.
4. Defendants Mark Gillespie, Ron Cheese, and Ron Pecolar are all organizers of the annual Wyoming Best of the Best event in Sweetwater County (the "Rock Springs Predator Derby").
5. Defendant Buddha Bob's Bar at the Sands (hereinafter "Buddha Bob's Bar") in Rock Springs has been the site of registration for the last two or three years.
6. Individuals do not need to have any particular degree of skill or experience in order to participate in the hunt.

At the start of trial, counsel for the parties informed the Court that a trial was not necessary and that they would stipulate and agree that they would only make closing argument and the Court could rely on the stipulated facts above, the facts contained in the Court file or submitted to the Court on the morning of trial to include:

1. The Affidavit of Joyce Corcoran attached as Exhibit A to Plaintiff's Petition for Writ of Injunction filed January 26, 2017;
2. Exhibit's 1-14 of Plaintiff's Motion of Summary Judgment filed August 14, 2017;
3. The deposition of Mark E. Gillespie taken July 27, 2017, with exhibits attached thereto;
4. The deposition of Wing S. Lew taken July 27, 2017, with exhibits attached thereto;
5. Plaintiff's trial exhibits 1-14.

The Court, upon the facts presented finds as follows:

The Wyoming Best of the Best (WBOTB) event in Sweetwater County, Wyoming is a competitive coyote hunt comprised of four separate contests:

1. A coyote hunting contest where each team pays a registration fee of Fifty Dollars (\$50.00) and prizes are awarded to the winning teams (the teams killing the most Coyotes) from the collected registration fees. There is also a "side bet" of twenty dollars (\$20.00) for the largest and smallest individual coyotes killed;

2. A Calcutta auction event is held at Buddha Bob's Bar and participants and non-participants alike are able to bid on teams and hold the right to the Calcutta winnings of a team winning the Calcutta event. The money collected during the auction makes up the pot of prize money for the winners;
3. The entrants and attendees can participate in a Keno style lottery event; and,
4. The entrants and attendees also can participate in a raffle by purchasing raffle tickets.

The Rock Springs Predator hunt was held on February 3<sup>rd</sup> and 4<sup>th</sup>, 2017. The event began with a registration on Friday night and then the hunt and awards event were held on Saturday. Both the registration and awards events occurred in a private room at Buddha Bob's Bar. Buddha Bob's Bar is owned by Sands Hospitality, Inc., and the entity has one shareholder, Mr. Wing S. Lew. Mr. Lew explained in his deposition testimony that the room was reserved for both nights by WBOTB and was provided at no charge other than the charges for food and beverage sold over the two evenings. Mr. Lew only knew that the event was a coyote hunting contest with prizes awarded to the winners. He did not believe any illegal activity was happening at his establishment.

Defendant Mark E. Gillespie explained WBOTB is an unincorporated association of individuals who put on coyote hunting contests around the state for the enjoyment and entertainment of the participants. It is an opportunity to enjoy the outdoors, participate in a contest style event and do something they'd do on their own anyway. There are seven qualifying hunts around the state followed by a culminating state championship event. The top twelve teams from each of the qualifying hunts earn the right to participate in the state championship hunt. Mr. Gillespie said there are a number of other hunts, not affiliated with WBOTB, around the state that employ a similar format – hunting contest, Calcutta, raffle, etc.

WBOTB is a loosely organized unincorporated association. WBOTB has officers and it has a checking account. When WBOTB opened a bank account it was required to obtain a federal tax identification number. WBOTB has not applied for or been approved as a non-profit organization under any subpart of Section 501(c) of the Internal Revenue Code.

The members solicit sponsorships from local businesses like Fremont Motors and Summit Crane Service. The total revenue from sponsorships and contributions for all the hunts around the state is about Eleven Thousand Dollars. The organization uses the money for prizes (belt buckles), promotions, banners, scholarships and other miscellaneous expenses. WBOTB also receives donations of items that can be used as door prizes, likes hats, t-shirts, gloves, knives, or coyote calls.

A percentage of the registration fee (8.5%) and a percentage of the Calcutta pot (15%) is withheld and used to help fund the culminating championship event. The remaining amount of the registration fee (91.5%) and the Calcutta pot (85%) is paid out to the winners of the hunting contest and Calcutta events respectively.

Additional facts will be presented as necessary in the discussion below.

## **Procedure and Evidence**

The rules of civil procedure apply, though it is a special statutory proceeding under Rule 81. *Weiss v. State ex rel. Danigan*, 434 P.2d 761, 763 (Wyo. 1967); *Weiss v. State ex rel. Leimback*, 435 P.2d 280, 281–82 (Wyo. 1967). Rule 65(d) applies to an injunction against a nuisance. *Weiss v. Leimback*, 435 P.2d at 283.

“Evidence of the general reputation of the place is admissible for the purpose of proving the existence of the nuisance.” Wyo. Stat. Ann. § 6-6-203.

## **Who May Bring Action**

The county attorney or any citizen of the county may bring an action in the name of the state of Wyoming upon the relation of the county attorney or citizen. Wyo. Stat. Ann. § 6-6-202 (LexisNexis 2016) (emphasis added). A complaint filed by a citizen may not be dismissed except upon a sworn statement made by the citizen and attorney setting forth the reason why the action should be dismissed, and the dismissal approved by the county attorney in writing or in open court. Wyo. Stat. Ann. § 6-6-203 (LexisNexis 2016). If the court finds the action should not be dismissed, the court may order the county attorney to prosecute the action to

judgment. Id. If there was no reasonable ground for the action, costs may be taxed to the citizen. Id. The Plaintiff resides in Sweetwater County, Wyoming and is a proper party to bring this action.

## Gambling

Wyo. Stat. Ann. § 6-7-101(a) (LexisNexis 2016) defines the gambling terms pertinent to this matter as:

- (i) “Calcutta wagering” means wagering on the outcome of amateur contests, cutter horse racing, dog sled racing, professional rodeo events, golf tournament in which those who wager bid at auction for the exclusive right to “purchase” or wager upon a particular contestant or entrant in the event and when the outcome of the event has been decided the total wagers comprising the pool, less a percentage “take-out” by the event’s sponsor, is distributed to those who “purchased” or wagered upon the winning contestants or entrants;

.....

- (ii) “Gambling” means risking any property for gain contingent in whole or in part upon lot, chance, the operation of a gambling device or the happening or outcome of an event, including a sporting event, over which the person taking a risk has no control, but does not include any of the following:

- (A) Bona fide contests of skill, speed, strength or endurance in which awards are made only to entrants or the owners of entries;

- (E) Any game, wager or transaction which is incidental to a bona fide social relationship, is participated in by natural persons only, and in which no person is participating, directly or indirectly, in professional gambling;

- (F) Calcutta wagering on contests or events conducted by a bona fide nationally chartered veterans’, religious, charitable, educational or fraternal organization or nonprofit local civic or service club organized or incorporated under the law of this state, provided that:

- (I) The contest or event is conducted solely in this state;
  - (II) Any rules affecting the contest or requirements for participants are clearly posted;
  - (III) The total prizes or prize money paid out in any one (1) contest or event does not exceed ninety percent (90%) of the total wagers;
  - (IV) A minimum of ten percent (10%) of the total wagers on each contest or event is donated within one (1) year by the sponsoring organization to a bona fide charitable or benevolent purpose;
  - (V) No separate organization or professional person is employed to conduct the contest or event or assist therein;
  - (VI) The sponsoring organization before conducting the contest or event gives thirty (30) days written notice of the time and place thereof to the governing body of the county or municipality in which it intends to conduct the contest or event and the governing body does not pass a resolution objecting thereto;
  - (VII) The sponsoring organization has complied with the relevant sections of the internal revenue code of 1954, as amended, relating to taxes on wagering.
- (H) Raffles conducted for charitable purposes;

Wyoming's gambling statute generally prohibits risking any property for gain contingent in whole or in part upon lot, chance, the operation of a gambling device or the happening or outcome of an event, including a sporting event, over which the person taking a risk has no control. Gambling is a misdemeanor punishable by imprisonment for not more than six months and a fine of not more than \$750.00, or both. Professional Gambling is a felony punishable by imprisonment for not more than three years and a fine of not more than \$3,000.00. Professional gambling is defined as either aiding or inducing another to engage in gambling with the intent to derive a profit therefrom or, participating in gambling and having, other than by virtue of skill or luck, a lesser chance of losing or a greater chance of winning than one or more of the participants.... Wyo. Stat. Ann. § 6-7-101(a)(viii) (LexisNexis 2016).

That said, the list of games and activities excepted from the gambling statute show the exceptions are overwhelming the rule. The statute excepts bingo, pull tabs, pari-mutuel betting, games or wagers incidental to social relationships, the private use of antique gambling devices in the owner's residence, Calcuttas, raffles and any lottery game run by the Wyoming lottery corporation. Most of the listed exceptions are excepted upon some condition. Some require a connection to a charitable or non-profit entity or the use of proceeds for a charitable purpose. Pari-mutuel betting required ownership of a live track in the state. Suffice it to say, gambling, like alcohol is apparently not near the sin it was once considered to be. Nonetheless, Wyo. Stat. Ann. § 6-6-202 (LexisNexis 2016) still dictates that illegal gambling is a nuisance.

## **Predatory Hunting**

Wyo. Stat. Ann. § 23-1-101(vii)(a) (LexisNexis 2016) classifies a coyote as a "predatory animal." Wyo. Stat. Ann. § 23-3-103 (LexisNexis 2016) provides that predatory animals may be taken without a license in any manner at any time except as limited by:

1. Wyo. Stat. Ann. § 23-2-303(d)(e) (LexisNexis 2016), which requires following the statutory requirements for trapping and snaring;
2. Wyo. Stat. Ann. § 23-3-112 (LexisNexis 2016), which precludes the use of automatic weapons or silencers;
3. Wyo. Stat. Ann. § 23-3-304(b) (LexisNexis 2016), which precludes the use of game animals, birds, fish or parts thereof for bait to trap or poison;
4. Wyo. Stat. Ann. § 23-3-305(a-e) (LexisNexis 2016), which precludes, hunting, shooting or attempting to kill from any public roads or highways; hunting on private property without permission of the owner; shooting from, upon, along or across a road or highway; firing a rifle from one private property to another without the permission of both owners; and, hunting at night upon privately owned or leased lands except with written permission of the landowner or lessee; and,

5. Wyo. Stat. Ann. § 23-3-307 (LexisNexis 2016), which precludes carrying a firearm or taking any wildlife while intoxicated or under the influence of a controlled substance.

## Nuisance Abatement

Plaintiff claims the WBOTB Rock Springs Predator Hunt is a nuisance under Wyo. Stat. Ann. § 6-6-202 (LexisNexis 2016) alleging an illegal gambling component to the event. The purpose of a nuisance action is to “perpetually enjoin the nuisance, the person maintaining the nuisance, and the owner or agent of the building or ground upon which the nuisance exists.” Wyo. Stat. Ann. § 6-6-202. Wyo. Stat. Ann. § 6-6-202 (LexisNexis 2016) states:

Whoever maintains, uses, owns or leases any structure, boat or vehicle for the purpose of lewdness, assignation, prostitution or gambling, or for manufacture, possession, sale or disposition of intoxicating liquor or any controlled substance in violation of law, is guilty of a nuisance, and the structure, boat or vehicle and the ground upon which the structure is situated and the furniture, fixtures, musical instruments, gambling devices, and instruments of every kind or nature, and contents, are also declared a nuisance, and shall be enjoined and abated.

Wyo. Stat. Ann. § 6-6-201 (LexisNexis 2016).

To simplify the wording of the statute by eliminating the unnecessary wording regarding parts not relevant to this case, the statute would read:

Whoever maintains, uses, owns or leases any structure, for the purpose of gambling, in violation of law, is guilty of a nuisance, and the structure and ground upon which the structure is situated and the furniture, fixtures, musical instruments, gambling devices and instruments of every kind or nature, and contents, are also declared a nuisance, and shall be enjoined and abated.

If a nuisance is established in a civil or criminal proceeding,<sup>1</sup> “an order of abatement shall be entered as a part of the judgment in the case.” Wyo. Stat. Ann. § 6-6-204. Subject to the filing of a bond,

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<sup>1</sup> Section 202 also contains procedures for a “temporary writ of injunction.” *See also Weiss v. Danigan*, 434 P.2d at 762; *Weiss v. Leimback*, 435 P.2d at 282.

The order shall direct the removal from the building or place of all fixtures, furniture, musical instruments or movable property contained therein used in conducting the nuisance, and shall direct the sale thereof in the manner provided for the sale of personal property under execution, and shall order the closure of the structure or place against the use for a period specified by the court.<sup>2</sup> ... For removing and selling the movable property, the officer shall be entitled to receive the same fees as he would for levying upon and selling like property on execution. For closing the premises and keeping them closed, a reasonable sum shall be allowed by the court.

Id. The proceeds of the sale “shall be applied in payment of the costs of the action and abatement, and the balance, if any, shall be paid to the defendant.” Wyo. Stat. Ann. § 6-6-205. The Court may cancel the sale if the owner pays costs and posts a bond:

If the owner appears and pays all costs of the proceeding, and files a bond with sureties to be approved by the clerk in the full value of the property, as specified by the court, conditioned that he will immediately abate the nuisance and prevent recurrence of the nuisance for a time specified by the court,<sup>3</sup> the court may, if satisfied of his good faith, cancel the order of abatement as it relates to the property. The release of the property under this section shall not release it from any judgment, lien or liability to which it may be subject by law.

Wyo. Stat. Ann. § 6-6-206.

“Costs of the proceeding” does not appear to include attorney fees. *See Matter of Estate of Croft*, 734 P.2d 59, 59 (Wyo. 1987) (statute providing for payment of “fees and expenses” does not expressly provide for attorney fees); *cf. Cone v. Bernweiser*, 271 P. at 14 (state law carrying Eighteenth Amendment into effect, 1921 Wyo. Sess. Laws ch. 117, providing for action to enjoin a nuisance, expressly

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<sup>2</sup> As enacted in 1921 and recodified in 1963, the period was “one year, unless sooner released.” 1921 Wyo. Sess. Laws ch. 87; 1963 Wyo. Sess. Laws ch. 66; *Weiss v. Danigan*, 434 P.2d at 763 (“the nuisance act limits the duration of any injunction to a period of one year”). It was changed in 1982 or 1983. 1982 Wyo. Sess. Laws ch. 75, § 3; 1983 Wyo. Sess. Laws ch. 171, § 1. The mandatory closure period is one year under Ohio’s substantially similar statute. *State ex rel. Eckstein v. Midwest Pride IV, Inc.*, 128 Ohio App. 3d 1, 5, 713 N.E.2d 1055, 1058 (1998). However, this violates the Takings Clause as applied to an innocent property owner. *State ex rel. Pizza v. Rezcallah*, 1998-Ohio-313, 84 Ohio St. 3d 116, 124-25, 702 N.E.2d 81, 88.

<sup>3</sup> Again, length of the bond was originally one year. See n. 2.

provides for “judgment against the defendant for costs, and there shall also be taxed as costs a reasonable attorney's fee, not less than \$50 nor more than \$200 to be paid to the complainant, or his attorney”); *see also Tucker v. Snow*, 251 P. at 465 (1921 Wyo. Sess. Laws ch. 117 provides for attorney fees; on the other hand, ch. 87 does not).

## Assessment of Tax

When a permanent injunction is issued against a person for maintaining a nuisance, or against the owner or agent of a building kept or used for purposes prohibited by the nuisance statutes, the county assessor shall assess against the real property (“the building and the ground upon which it is located”) and against the person or persons maintaining the nuisance, and the owner or agent of the premises, a tax of \$300. If the assessor neglects to make the assessment, the county sheriff shall make it and return it to the county treasurer. The tax may be enforced and collected in the manner for the collection of taxes under the general revenue laws and shall be a perpetual lien on all real and personal property used for maintaining the nuisance. The tax shall be distributed as money arising from the collection of fines and penalties in criminal cases. Wyo. Stat. Ann. § 6-6-207.

The language of the statute is difficult, but it appears this is one tax for which there may be joint liability. *See State ex rel. Miller v. Anthony*, 1995-Ohio-39, 72 Ohio St. 3d 132, 138–39, 647 N.E.2d 1368, 1373; *State ex rel. Ewing v. Without A Stitch*, 37 Ohio St. 2d 95, 104, 307 N.E.2d 911, 917 (1974).

## Discussion

The Plaintiff, Joyce Corcoran is a resident of Sweetwater County, Wyoming. She works at Western Wyoming Community College. She lives in Sweetwater County because of its natural beauty and the opportunities to live and recreate in the outdoors. She believes that coyotes are important to Sweetwater County's ecosystem. She believes that the idea of placing bets and gambling over the destruction of native Sweetwater County wildlife is disgusting. Ms. Corcoran is not opposed to hunting. She supports Wyoming's long tradition of subsistence hunting,

regulated by the issuance of licenses and tags however, she believes that coyote hunting is not subsistence hunting; that it is not lawful hunting; and, that it constitutes illegal gambling and a moral nuisance. Her assessment of coyote hunting is incorrect. Coyotes are predators and may be taken without a license in any manner at any time with limited statutory exceptions. Wyo. Stat. Ann. § 23-3-103 (LexisNexis 2016). Counsel for Plaintiff cautioned the Court more than once that this case is not about hunting. The Court agrees because if it were, Wyoming law is clear.

This case is about whether some or all the WBOTB events constitute illegal gambling and whether an injunction should issue from this Court to stop the illegal gambling by WBOTB at Buddha Bob's Bar at the Sands. Wyoming law defines gambling as risking any property for gain contingent in whole or in part upon lot, chance, the operation of a gambling device or the happening or outcome of an event, including a sporting event, over which the person taking a risk has no control. Wyo. Stat. Ann. § 6-7-101(a)(iii) (LexisNexis 2016). The statutory definition of gambling under Wyo. Stat. Ann. § 6-7-101(a)(iii) (LexisNexis 2016), applied to a hunting contest between hunters would read the risking of any property (the registration fee) for gain (the prizes) contingent in whole or in part upon the happening or outcome of an event, including a sporting event, over which person taking the risk has no control over the outcome (Wyo. Stat. Ann. § 6-7-101(a)(iii) (LexisNexis 2016)). A hunter has a good deal of control over the outcome. The hunter's training, experience, skill and ability is key. In addition, Wyoming's definition of gambling specifically excludes a "bona fide contest of skill, speed, strength or endurance in which awards are made only to entrants or the owners of entries." Hunting requires specialized knowledge, skill and endurance.

Defendant Mark Gillespie testified at a deposition taken July 27, 2017. He testified at some length about the skill and abilities required to hunt and win a hunting contest as follows:

Q. What if it's warmer, which is not usually the case. But if we all got a warm day inexplicitly, so that would affect perhaps a scheduled event if it were warmer than you would expect?

A. No, warmer doesn't affect anything. None of those things affect the hunt. I mean you're a coyote hunter and you go out and you use your skill in calling, scouting and your marksmanship, and that's what counts. I mean you deal with whatever. I mean some days a coyote maybe is not going to come into your call, whereas the next day, he'll come right in. It's all -- all the scouting

and all the experience you have in understanding coyotes helps you be a good coyote hunter. I mean if they're not coming in to a rabbit call, then you use a vocal sound from a coyote vocal or something, you know, barks and howls and stuff like that.

(Gillespie Deposition at 103)

....

Q. Okay. I always think of wily being a word that is used to describe coyotes, probably from the cartoon. Do you have in your experience some particular coyotes that seem smarter than others or more determined to get away, or the opposite, that they're more likely to you know, come closer, that sort of --

A. Well, if you were a coyote hunter, you would understand that coyotes, as they get older, they get smarter, just like human beings. As they get educated, they get smarter. They get educated. They might come into a call and hear a sound and wind ya and get away. They know that. Or they might be a five-year-old coyote that's a male and he's real dominant, and he won't come in to -- I mean he's more experienced. He's a dominant male, and he's not going to come into a female sound or a female howling sound or something. Depending on the year, you use rabbit sounds or vocals or whatever, whatever you think will work and it's understanding the language of the coyote. I mean there's different howls they have that you've got to understand what they're saying to you. Are they challenging you? Are they territorial? What are they saying to you? The coyote hunter has to understand what he's saying to the coyote to get him to come in, and if you can't fool that coyote, because they're very smart -- the coyote is one of the smartest animals out there. If you can't fool that animal, then you're not going to get a coyote to come in, and you could go -- that's what I'm saying. Somebody that doesn't understand the language of a coyote isn't going to get as many as somebody that does.

(Gillespie Deposition, 106 and 107)

....

Q. So there's never a situation in your experience where you're just at the right time and place to find perhaps one of the older males that may be -- do you know what I mean?

A- You're asking a question that I -- I mean there's no control over. I mean a coyote could be in the area. He could be moving through an area. They have their territory, so they're going to stay in a certain area. So if you know that - - locate that area. There's going to be coyotes there.

Q. How do you locate those areas?

A. You go out and drive the roads and you look for signs. You look for coyote tracks, you howl and locate -- and they'll howl back if they're there. Early in the morning and late in the evening, they'll howl back, and you'll know how many coyotes are in that area.

I mean there's a lot of skill and strategy to understanding a coyote and locating him and -- for a hunt. In a hunt, you want to go into an area where there's a lot of coyotes. You don't want to go hunt a canyon where there's no coyotes in it.

Q. Right.

A. So you go out and see if there's any tracks or any signs. You go out after a fresh snow and see if there's coyotes there. If there's a herd of antelope there, you know there's coyotes there. They're trying to kill the antelope.

(Gillespie Deposition, 118 and 119)

....

Q. Okay. Am I correct in saying that you don't believe that any part, even a small part, of these coyote contests involve any chance?

A. There's always a chance you're going to run into a coyote, but most of it is skillful planning, scouting, how well a shot you are. I mean I don't succeed as well as some of these teams. Like this team here, I don't succeed as well as them because they are better marksmen.

One of them is a sniper for the army, so he's a better shot than me. So he might be able to take a 600 yard shot, where I only feel comfortable taking a 300 yard shot. So he's more skillful than me, and I need to get better at my skill as a marksman to harvest that coyote.

And that -- I mean we try that. In the off season, we're out at the shooting range. We're practicing. We're trying to develop a better skill to hunt coyotes.

(Gillespie Deposition, 120)

....

Q. Okay. And obviously I'm clear that you believe there is a lot of skill involved in these contest, but—

A. I've been doing this for 40 years, and I'm telling you, over time you learn a lot about a coyote.

Q. There is some part of these contests, though, some part – it might be small, but it's still luck, right, some part?

A. Yeah, I think some parts. You could be driving down a road and a coyote runs across.

Q. That's luck right?

A. That's luck.

(Gillespie Deposition, 120 and 121)

The hunting contest is not gambling. Even if one could reasonably argue that it fit within the broad definition in Wyo. Stat. Ann. § 6-7-101(a)(iii) (LexisNexis 2016) it would be excluded under Wyo. Stat. Ann. § 6-7-101(a)(iii)(A) (LexisNexis 2016). Hunting generally and hunting coyotes specifically is a bona fide contest of skill, speed, strength or endurance in which awards are made only to entrants or the owners of entries. Plaintiff argues that no degree of skill or experience is required to participate. Regardless, the evidence shows success depends in large measure on the degree of skill and experience.

Plaintiff argues that because chance or luck is involved, the activity is more likely gambling but chance or luck is at play in nearly every game or sporting contest. If chance or luck didn't play a part then the best contestant or team would always win. The elements of chance or luck, the weather, the condition of the players, mental or physical mistakes, all help to make what would otherwise be forgone to be a contest. To be sure, the best player or team usually wins, but the chance to win is why the contest is played out. The hunting contest, including the big dog little dog side bet is not illegal gambling.

Keno is a lottery style game of chance where individuals risk property for gain contingent in whole or part upon lot. As such it is illegal gambling.

While both Calcutta's and raffle's fit the definition of gambling, there are instances where the games are excepted from the definition of gambling and can be conducted legally. In this case, the method and manner in which the Calcutta and Raffle events were conducted are also illegal gambling.

A Calcutta can be excepted from the definition of illegal gambling if it meets the seven requirements in Wyo. Stat. Ann. § 6-7-101(a)(iii)(F)(I-VII) (LexisNexis 2016). WBOTB does not meet many of the requirements and the depositions of the Defendants would tend to show they didn't know about the requirements. There is no evidence that WBOTB is a bona fide nationally chartered veterans', religious, charitable, educational or fraternal organization or nonprofit local civic or service club organized or incorporated under the law of this state. The contest is not conducted solely in the State of Wyoming. There is no evidence that a minimum of ten percent (10%) of the total wagers on each contest or event is donated within one (1) year by the sponsoring organization to a bona fide charitable or benevolent purpose. WBOTB did not, before conducting the contest or event, give thirty (30) days written notice of the time and place of the contest or event to the governing body of the county or municipality in which it intended to conduct the contest or event. There is no evidence that WBOTB has complied with the relevant sections of the internal revenue code of 1954, as amended, relating to taxes on wagering.

A raffle can be excepted from the definition of illegal gambling if it meets the seven requirements in Wyo. Stat. Ann. § 6-7-101(a)(iii)(H) (LexisNexis 2016). They must be conducted for charitable purposes. There was no evidence presented that this raffle was conducted for a charitable purpose.

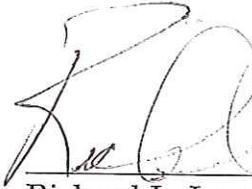
In this case, the place, Buddha Bob's Bar, was habitually, continuously or recurrently used for illegal gambling. It was for a two-day period, at least annually for the last two years, used for a modicum of illegal gambling. There is no reason to believe that the event would not have continued each year into the foreseeable future absent this lawsuit. On the other hand, the proprietor, Defendant Lew, didn't know much about the goings on with the WBOTB event. He is the owner and operator of a bar that can reserve a room or two for private events and parties. A room with tables and chairs was reserved for two nights by WBOTB and was provided at no charge other than the charges for food and beverages sold over the two evenings. Mr. Lew only knew that the event was a coyote hunting contest with prizes awarded to the winners. He did not believe any illegal activity was happening at his establishment.

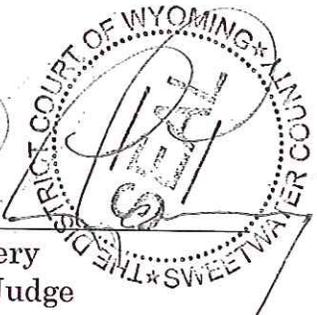
To the extent that illegal gambling was conducted by WBOTB and did occur at Buddha Bob's Bar, all illegal gambling activity at Buddha Bob's Bar or conducted by WBOTB should be enjoined. The parties stipulated Defendant Wing Lew, Buddha Bob's Bar at the Sands and Sands Hospitality Group, Inc., may post a bond in lieu of issuing and canceling an order of abatement under sections 204 and 206. At the commencement of trial the parties stipulated that a sufficient bond would be a Ten Thousand Dollar cash or surety bond posted for a term of three years.

The Plaintiff shall prepare a judgment and submit it to opposing counsel for approval as to form. If the parties are unable to agree to the form of the judgment, the proposed judgment and objections shall be presented to the Court per Rule 58(a). The judgment shall comply with Rule 65(d).

So ordered this 15<sup>th</sup> day of December, 2017.

By the Court

  
Richard L. Lavery  
District Court Judge



The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

Dated DEC 04 2017

Donna Lee Bobak  
Clerk of the District Court  
County of Sweetwater  
State of Wyoming

By   
Deputy