

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

Plaintiff,
v.

Case No.: 8:15-cv-

\$2,761,910 IN UNITED STATES CURRENCY

Defendant.

VERIFIED COMPLAINT FOR FORFEITURE *IN REM*

In accordance with Rule G(2) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, Plaintiff United States of America brings this complaint and alleges upon information and belief as follows:

NATURE OF THE ACTION

1. This is a civil action *in rem*, to forfeit to the United States of America, pursuant to 18 U.S.C. § 981(a)(1)(C) and Rule G(2), \$2,761,910 in lottery proceeds received from the World Triathlon Corporation (“Lottery Proceeds”) on the ground that the funds represent property which constitutes or is derived from proceeds traceable to a violation of 18 U.S.C. § 1955, or a conspiracy to commit such offense. The Lottery Proceeds are thus property constituting or derived from proceeds traceable to a violation of an offense constituting “specified unlawful activity” (as defined in section 1956(c)(7) of Title 18) and subject to civil forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C).

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over an action commenced by the United States by virtue of 28 U.S.C. § 1345, and over an action for forfeiture by virtue of 28 U.S.C. § 1355.

3. This Court has *in rem* jurisdiction over the Lottery Proceeds pursuant to:

a. 28 U.S.C. § 1355(b)(1)(A), because pertinent acts or omissions giving rise to the forfeiture occurred within the Middle District of Florida; and

b. 28 U.S.C. § 1355(b)(1)(B), because venue properly lies in the Middle District of Florida pursuant to 28 U.S.C. § 1395.

4. Venue is proper in the District Court for the Middle District of Florida pursuant to 28 U.S.C. § 1355(b)(1), because the acts giving rise to the forfeiture of the Lottery Proceeds occurred in this district.

5. Because the Lottery Proceeds are in the government's possession, custody, and control, the United States requests that the Clerk of Court issue an arrest warrant *in rem*, upon the filing of the complaint, pursuant to Supplemental Rule G(3)(b)(1). The United States will then execute the warrant on the property pursuant to 28 U.S.C. § 1355(d) and Supplemental Rule G(3)(c).

THE DEFENDANT *IN REM*

6. The World Triathlon Corporation (WTC) delivered the Lottery Proceeds to the United States on May 11, 2015. The Lottery Proceeds are

currently being held by the United States in the United States Marshals Service suspense account.

7. The WTC has entered into a Consent Forfeiture Agreement with the United States. See Consent Forfeiture Agreement attached hereto as Exhibit A. The WTC has agreed not to contest that the Lottery Proceeds represent property which constitutes or is derived from proceeds traceable to a violation of Title 18, United States Code, Section 1955, and that they are thus subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C). Exhibit A at ¶ 3. Additionally, WTC has agreed that it will not contest the civil forfeiture of the Lottery Proceeds and waived its right to receive notice of this civil forfeiture action. *Id.* Therefore, the United States will not be sending WTC notice of this civil forfeiture action.

BASIS FOR FORFEITURE

8. Pursuant to Title 18, United States Code, Section 1955, it is a crime to conduct an "illegal gambling business." An "illegal gambling business" is a gambling business that:

- a. Violates the law of a State in which it conducts business;
- b. Involves five or more persons; and
- c. Remains in continuous operation for at least thirty days; or has gross revenue of \$2,000 in a single day.

9. Lotteries are prohibited by the Florida constitution.¹ The constitutional prohibition is also codified in statute. Fla. Stat. 849.09. Generally, a lottery is a scheme that contains three elements: consideration, chance, and prize.

10. Because the Lottery Proceeds represent proceeds of a violation of 18 U.S.C. § 1955, they are subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C). Under Section 981(a)(1)(C), the United States is authorized to civilly forfeit any property that constitutes or is derived from proceeds traceable to a "specified unlawful activity," as defined in 18 U.S.C. § 1956(c)(7). "Specified unlawful activity," is defined in 18 U.S.C. § 1956(c)(7) to include offenses listed in 18 U.S.C. § 1961(1), which in turn includes conducting an illegal gambling business in violation of 18 U.S.C. § 1955.

11. As required by Rule G(2)(f), the facts set forth herein support a reasonable belief that the government will be able to meet its burden of proof at trial. Specifically, they support a reasonable belief that the government will be able to show by a preponderance of the evidence that the Lottery Proceeds are traceable to proceeds of an illegal gambling business violation.

12. Specific details of the facts and circumstances supporting the forfeiture of the Lottery Proceeds have been provided by Special Agent Lynn M. Billings of the Federal Bureau of Investigation who states as follows:

¹ Article 10, § 7, Fla. Const.

FACTS

13. WTC is a for-profit Florida corporation which was formed in 1989. WTC is headquartered in Tampa, Florida and conducts business in the state of Florida and elsewhere. WTC organizes, promotes, and licenses triathlon races, including "Ironman" triathlons,² in Africa, Asia, Australia, Europe, North America, and South America. Each year in October, WTC holds the "Ironman World Championship" in Kailua-Kona, Hawaii. Since at least 2008, WTC has remained in continuous operation and has employed more than five persons.

14. Generally, athletes gain entry into the Ironman World Championship in one of four ways: by earning a slot at one of the over three dozen qualifying WTC "Ironman" events held worldwide (slots are awarded to the top age-group finishers), by being selected in the "Ironman Lottery," by being selected in the "Ironman Legacy Program,"³ or by winning a slot through the "Ironman World Championship eBay auction."⁴

² An Ironman Triathlon consists of a 2.4-mile swim, a 112-mile bicycle ride, and a 26.2-mile run.

³ The Ironman Legacy Program grants 100 of WTC's most loyal customers the opportunity to compete in the Ironman World Championship. One hundred Legacy winners are chosen by WTC based on several criteria. To be eligible for selection through the Legacy Program, athletes must have completed a minimum of 12 full-distance Ironman-branded races, have never raced in the Ironman World Championship, have completed at least one full-distance Ironman event in each of the two previous years, and be registered for a full-distance Ironman event in the year in which they seek to compete in the Ironman World Championship.

⁴ The "Ironman World Championship eBay auction" provides athletes the opportunity to bid on one or more slots to the Ironman World Championship. The auction is conducted by Ironman Foundation, Inc. The winning bids get an entry into the Ironman World Championship event. Each slot begins with a minimum bid of \$10,000.

15. The “Ironman Lottery” began in 1983, as a way to provide athletes who did not qualify the opportunity to compete in the Ironman World Championship. Each year since approximately 1989, the WTC has conducted the “Ironman Lottery,” through which it has awarded athletes the opportunity to compete in the Ironman World Championship.⁵ The 2015 Ironman Lottery entry fee was \$50, and the lottery was used to award 100 athletes the opportunity to compete in the Ironman World Championship.⁶ Slots for the Lottery Program do not sell out, but an athlete can only register for the Ironman Lottery once per year. For an additional \$50, however, athletes can purchase “membership” in the “Passport Club” which offers an increased chance of being selected through the lottery. If an athlete registers for the Ironman Lottery and joins the Passport Club, he or she receives two chances to be selected. By paying the Passport Club membership of \$50 per calendar year, athletes double their chances of winning the lottery.⁷

⁵ Prior to that year, the Ironman Lottery was conducted by the Hawaii Triathlon Corporation.

⁶ Winners of the 2015 lottery were afforded the opportunity to purchase an entry at face value (\$850) to compete in the Ironman World Championship, subject to the condition that the selected individual first completes another Ironman-branded race leading up to the Ironman World Championship race.

⁷ In 2012, WTC changed the way it selected lottery winners. Beginning that year, athletes gained an increased chance of being selected for the Ironman Lottery based on the number of years that they had entered the lottery since 2004. For example, if an athlete had registered for every Ironman Lottery from 2004 through 2012, his or her chances of winning a lottery entry to the Ironman World Championship would have been eight times greater than if he or she were registering for the first time. Additionally, entrants were required to have consecutive entries, year-over-year, to maintain credit from previous years.

16. WTC represented to athletes that it was “unable to release exact numbers” with regard to the number of people who register for the lottery or the chances of being selected.

17. The Ironman Lottery contains the elements of consideration (an entry fee of between \$35 and \$50, depending on the year), chance (winners are randomly selected), and prize (the opportunity to compete in the Ironman World Championship). As such, the lottery violates Florida’s anti-lottery law. See Fla. Stat. 849.09. Additionally, since WTC has remained in continuous operation in Florida since at least 2008, and has employed more than five persons during that time, WTC has violated 18 U.S.C. § 1955.

Ironman Lottery Proceeds

18. WTC received 10,939 entries for the 2013 Ironman Lottery, through which WTC awarded 100 slots to the 2013 Ironman World Championship. Each entry fee was \$40. In addition, 4,337 individuals purchased a \$50 “membership” in the Passport Club which gave them a second chance of being selected through the Ironman Lottery that year. Thus, WTC received a total of \$654,410 in Lottery/Passport Club entry fees paid to enter the Ironman Lottery for the 2013 Ironman World Championship. This \$654,410 is proceeds traceable to a violation 18 U.S.C. § 1955 and subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C).

19. WTC received 12,292 entries for the 2014 Ironman Lottery, through which WTC awarded 100 slots to the 2014 Ironman World Championship. Each

entry fee was \$50. In addition, 5,940 individuals purchased a \$50 “membership” in the Passport Club which gave them a second chance of being selected thought the Ironman Lottery that year. Thus, WTC received a total of \$911,600 in Lottery/Passport Club entry fees paid to enter the Ironman Lottery for the 2014 Ironman World Championship. This \$911,600 is proceeds traceable to a violation 18 U.S.C. § 1955 and subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C).

20. WTC received 14,254 entries for the 2015 Ironman Lottery, through which WTC awarded 100 slots to the 2015 Ironman World Championship. Each entry fee was \$50. In addition, 6,889 individuals purchased a \$50 “membership” in the Passport Club which gave them a second chance of being selected thought the Ironman Lottery that year.⁸ Thus, WTC received a total of \$1,057,150 in Lottery/Passport Club entry fees paid to enter the Ironman Lottery for the 2015 Ironman World Championship. This \$1,057,150 is proceeds traceable to a violation 18 U.S.C. § 1955 and subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C).

21. The “winners” of the 2015 Ironman Lottery were announced on March 17, 2015. Winners of the lottery are permitted to pay the \$850 entry fee for the 2015 Ironman World Championship and participate in the race. So in

⁸ So in effect, there were 21,143 entries for the 2015 lottery (14,254 Ironman Lottery entries and 6,889 Passport Club entries). Thus the odds of a first time lottery entrant being selected were less than 1 in 200.

2015, WTC made over \$10,000.00 per slot it awarded via the Ironman Lottery (on top of the \$850 registration fee).

Ironman “Valentine's Day Lottery” and “Gift of Kona drawing”

22. In addition to the general Ironman Lottery, WTC conducted two other lotteries in 2014: the Ironman “Valentine's Day Lottery” and the Ironman “Gift of Kona drawing.”

23. The Ironman “Valentine's Day Lottery” was used to randomly select one winner who was given the chance to compete at the Ironman World Championship on October 11, 2014. The entry fee was \$50 and athletes could purchase as many entries as they wanted. Registration for the Valentine's Day Lottery opened on February 5, 2014, and closed on February 14, 2014. There were 1,352 entries in the Valentine's Day Lottery and one “winner.” That lottery alone grossed WTC \$67,600. The Ironman “Valentine's Day Lottery” contained the elements of consideration (a \$50 entry fee), chance (the winner was randomly selected), and prize (a chance to compete at the Ironman World Championship). This \$67,600 is thus proceeds traceable to a violation of 18 U.S.C. § 1955 and subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C).

24. The Ironman “Gift of Kona drawing” was used to randomly select one winner of an opportunity to compete in the 2015 Ironman World Championship and a “VIP package for two people on race day.” The entry fee was \$50, and athletes could purchase up to ten entries. Registration for the Gift

of Kona drawing opened on December 4, 2014, and closed on December 31, 2014. There were 1,423 entries in the "Gift of Kona drawing" and one "winner." That lottery grossed WTC \$71,150. The Ironman Gift of Kona drawing contained the elements of consideration (a \$50 entry fee), chance (the winner was randomly selected), and prize (a chance to compete in the 2015 Ironman World Championship and a VIP package for two). This \$71,150 is thus proceeds traceable to a violation of 18 U.S.C. § 1955 and subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C).

25. In total, WTC grossed \$2,761,910 from the 2013 Ironman Lottery (\$654,410), the 2014 Ironman Lottery (\$911,600), the 2015 Ironman Lottery (\$1,057,150), the "Valentine's Day Lottery" (\$67,600), and the "Gift of Kona drawing" (\$71,150). This \$2,761,910 is thus proceeds WTC received since October 24, 2012 traceable to a violation of 18 U.S.C. § 1955. Therefore, the \$2,761,910 is subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C).

CONCLUSION

As required by Rule G(2)(f), the facts set forth herein support a reasonable belief that the government will be able to meet its burden of proof at trial. Specifically, for the reasons set forth above, probable cause exists to believe that the Lottery Proceeds are traceable to proceeds of an illegal gambling business conducted in violation of 18 U.S.C. § 1955. Therefore, the Lottery Proceeds are subject to forfeiture to the United States pursuant to 18 U.S.C. § 981(a)(1)(C).

WHEREFORE, the United States requests that process be issued against the Lottery Proceeds, in accordance with Rule G, to enforce the forfeiture, and that any person or entity having an interest therein be cited and directed to appear and show cause why the Lottery Proceeds should not be forfeited to the United States for disposition according to law; and that the United States have such other and further relief as this case may require.

Dated: May 12, 2015

Respectfully Submitted,

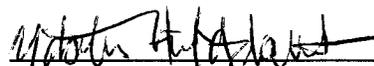
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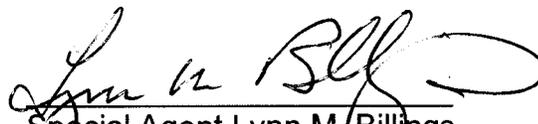
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VERIFICATION

I, Lynn M. Billings, verify and declare under penalty of perjury, that I am a Special Agent with the with the Federal Bureau of Investigation and pursuant to 28 U.S.C. § 1746, I state that I have read the foregoing Verified Complaint for Forfeiture *in Rem*, and the matters contained therein are true to my knowledge and belief.

I hereby verify and declare under penalty of perjury that the foregoing is true and correct.

Executed this 12TH day of May, 2015.


Special Agent Lynn M. Billings
Federal Bureau of Investigation