



To: Kristy Tibbles, Executive Director Alaska Board of Game
Ted Spraker, Chairman Alaska Board of Game
Lee Strout, Investigator DCCED
Cheryl Brooking, Department of Law

From: Resident Hunters of Alaska (RHAK)

Re: Conflict of Interest – Nathan Turner

A conflict of interest is a set of circumstances that creates the risk that professional judgment and actions regarding a primary interest, here the public interest, will be unduly influenced by a secondary influence – in this case Mr. Turner's obvious substantial financial and personal interest as a licensed registered big game guide in matters before the BOG. The rationale for regulating conflicts of interest and demanding disclosures that allow responsible officials to make informed decisions regarding potential conflicts is to ensure that secondary interests do not subvert policy makers' decisions regarding the primary interest and do not undermine the public trust. Secondary interests include not merely financial interests but the desire for professional advancement, recognition of personal achievement, and favors and relationships with family, friends, and colleagues. It is true that many secondary interests, including financial interests, are – within limits – legitimate; these secondary interests are objectionable only when they are not disclosed, or as in Mr. Turner's case, what we have is a failure to disclose and disingenuous testimony about potential conflict that presents a prima facie case that they have greater weight than the primary or public interest

Board of Game (BOG) member Turner's participation in the development of BOG-generated proposals 207 and 208 presents a clear conflict of interest and raises concerns about fairness within the BOG process. There is substantive evidence Mr. Turner has repeatedly violated his obligation to fully disclose conflicts of interest during ethics disclosures. As a professional and licensed guide Mr. Turner naturally has the interests of guides and non-resident hunters in mind, as that provides the bulk of his income.

Mr. Turner's own business website provides direct links to nonresident lobbyist and advocacy groups, such as the Alaska Professional Hunter's Association, of which he was a board member and maintains an active membership. (See Exhibit A – Brochure for the Alaska Nonresident Hunting Preservation Fund on Mr. Turner's website: <http://www.globaloutfitters.com/JHF/NRHPFBro.pdf>)

Note the benefits members receive; a full time lobbyist and legal representation in Washington DC, a full time legislative lobbyist in Juneau, and perhaps most troubling – the promise of “representation” [on] the BOG. It is not evident therefore that Mr. Turner's direct and personal financial interest in allocating resources (or opposing allocation) to nonresidents may be considered “insignificant.”

The relevant legal framework is clear; if a member has a significant personal or financial interest in an issue before the board, he or she must refrain from deliberating or acting on that issue. At the beginning of each BOG meeting, the chairman calls on each member to present their ethics disclosure statements. Board members then describe their income sources, list any personal or financial interest they or their family members may have with regard to the proposals to be considered at the meeting. Following any clarification or discussion, the Chairman issues a ruling on the members' eligibility to participate on specific proposals. If the board member is consequently found to have a conflict with a given proposal, that member does not participate in any BOG discussion, deliberation, or in voting on the particular proposal. Conflicts are typically found when a board member (or their family members) has a significant economic interest in a harvest area. (These same considerations are relevant to Mr. Turner's appointment to and participation in the Sheep Working Group as well).

Another relevant principle is the nature of the conflict itself; it is not simply that a situation or occurrence are actually compromised, rather a set of particular circumstances or relationships create a risk that the primary interest will be neglected as a consequence of the pursuit of the secondary interest. This is an objective question and the subjective intention of the individual actor does not alter the fundamental nature of the element of risk. It is the context in its totality that matters; and the standards for discernment are not the vague and misleading statements of Mr. Turner, but transparent and clearly delineated statements that focus on particular elements that constitute the risk.

With respect to proposal 208, "substantial impropriety" pursuant to AS 39.52.110 can be demonstrated as Mr. Turner's personal or financial interest in the matter is not insignificant, or of a type that is possessed generally by the public or a large class of persons to which the public officer belongs and the action or influence would have insignificant or conjectural effect on the proposal under consideration. Mr. Turner earns a significant portion of his income from professional guiding; "financial interest" means an interest held by a public officer or an immediate family member, which includes an involvement or ownership of an interest in a business, including a property ownership, or a professional or private relationship, that is a source of income, or from which, or as a result of which, a person has received or expects to receive a financial benefit. Further; guide licenses are not generally possessed by the public and Guides do not represent a large class of persons. Not to mention the fact that not all big game guides are legal residents of Alaska.

When inquiry about potential conflict of interest with regard to Board of Game generated proposal 208 (now Proposal 48 at the 2016 Statewide meeting) was raised in a perfunctory manner; Mr. Turner in his ethics disclosure of February 13, 2015 at the Region IV BOG Meeting stated in part: *"... Of the proposals we will be addressing during this meeting, I'm not aware of any that would have financial benefit or loss to myself or a family member. I would like to note there is a public comment, Public Comment 35 that raises the question of whether I should be allowed to deliberate on any sheep proposals since I was recently selected to receive a federal guide concession and would therefore be able to offer sheep hunts in the future. I'd like to elaborate on this a little bit. I have been selected to receive a guide concession on federal lands in Unit 26 in the Arctic National Wildlife Refuge, that would allow me to provide sheep hunts. But that decision has been appealed and I've consequently not been awarded the area pending the outcome of this appeal. I have no way to predict the outcome of the appeal and currently do not hold a permit for the guide concession. Nor do I provide Dall sheep hunts anywhere in the state. If I do retain the hunting area I do not anticipate that this would add conflict due to the nature of the area being an exclusive guide concession without competition from other guides, and also having a fixed allocation for the number of sheep to be harvested. To date I've only worked in the capacity of an assistant guide while providing services related to Dall sheep hunts. To the best of my knowledge there are no other proposals that will be addressed at this meeting that will affect my own business interests or that*

of a family member as it stands today.... I certify that this disclosure statement is true, correct, and complete."

With options offered in proposal 208/48 (**See Exhibit B**), such as nonresident sheep hunters on private, state, and BLM managed lands restricted to a limited draw permit for the entire season with permit allocation by subunit, a resident sheep hunting season could also change from a general season harvest ticket to a limited draw: It is notable that Mr. Turner's statement that "*Of the proposals we will be addressing during this meeting, I'm not aware of any that would have financial benefit or loss to myself or a family member.*" is less than truthful considering all that spins around Mr. Turners advertising and his personal efforts to secure federal guide concessions and as all that relates to the intent of proposal 208.

Proposal 208/48 at 3. provides a free pass to nonresident hunters (i.e. guides) on Park Service and US Fish and Wildlife managed lands. Mr. Turner as a member of the BOG and advocate for guides (and only some guides) in the state having exclusive rights to areas under proposal 208 at 3.¹ would become immune from "draws" and any BOG imposed reductions in the numbers of nonresidents being guided for sheep while all other guides operating on private, state, and BLM managed lands are forced to deal with reductions in opportunity. Mr. Turner (and Mr. Spraker, for that matter) fail somehow to consider this obvious conflict. In the instant matter Mr. Turner elevated protecting his own special interests over the interest of all other state licensed guides who do not hold exclusive grants to federal lands. Mr. Turner's actions at the BOG level can be deemed to be dividing guides by representing only the interest of "some guides."

Mr. Turner further elaborates his misleading disclosures going on to state: "*If I do retain the hunting area I do not anticipate that this would add conflict due to the nature of the area being an exclusive guide concession without competition from other guides, and also having a fixed allocation for the number of sheep to be harvested.*" Mr. Turner is attempting to justify the smoke screen laid down in board generated proposal 208. The

¹ Proposal 208 (PROPOSAL 48 - 5 AAC 85.055) Hunting seasons and bag limits for Dall sheep; and 92.057 states 3. NOTE: Nonresidents hunting on National Park Service and US Fish and Wildlife Service managed lands are already limited due to guide concession programs, so this proposal does not address those hunters and hunt areas.

perception offered by Mr. Turner that there is no conflict because guided hunters on NPS/USFW lands are without competition from other guides is at best misleading. It is not true that these lands are without competition from other hunters. And, while it is true that NPS/USFS lands do have fixed allocations the absolute reality is that *this allocation is fixed by the guides themselves* and akin to the fox watching the hen house.

The facts are, the allocation (how many guided sheep hunts can be conducted on federal lands) is not based on any biological consideration established either by the Alaska Department of Fish and Game or by the respective Federal land managers. The federal government manages land; they manage the guides on the land. They do not manage sheep seasons and bag limits. They do not manage allocation of state resources. So, while "also having a fixed allocation" is such a blatant misrepresentation of the facts, so completely absent of any consideration with regard to "competition" between guided non-resident hunters and resident hunters, it is very difficult to conclude that Mr. Turner and Mr. Spraker are not collaborating to undermine the public process.

There are in fact two issues pertinent to this objection; the first having to do with Mr. Turner's failure to comply fully with AS 39.52.220 and then a second issue whether or not the Chairman, Mr. Spraker, complied with his obligation to make adequate investigation into the potential conflict; or even worse is actively collaborating with Mr. Turner in a scheme to deflect away any meaningful inquiry into what are in fact significant conflicts of interest on the part of Mr. Turner. Mr. Spraker is neither inexperienced nor uninformed; he was appointed to the Board of Game by Governor Murkowski in 2003; he served as the BOG member on the Big Game Commercial Services Board (the "guide board"). He moved to Alaska in 1973 and is career biologist, having worked briefly with the U.S. Fish and Wildlife Service and for nearly 30 years with the Alaska Department of Fish and Game in which capacity he also dealt with the BOG. Mr. Spraker ultimately retired as the Area Wildlife Biologist for the Kenai Peninsula; he is a member of the Alaska Trappers Association, Safari Club International and he is an avid hunter, trapper and fisherman. He is well versed in the relevant regulations and his obligation under the law to exercise oversight with regard to potential conflicts of interest by other members of the BOG. Yet as shown below he neglected to follow up and investigate serious potential for conflict of interest with regard to Mr. Turner.

This neuters the point or rationale behind AS 39.52 which seeks to preserve the integrity of professional judgment and sustain public confidence. The policy and the legal framework behind the statutory scheme does not assume that a particular board member will let financial gain influence his or her judgment, nor do they imply that an individual is unethical; they assume only that under some circumstances a risk exists that the decisions may be unduly influenced by considerations that ought to be irrelevant. Here however, where vague and disingenuous statements are uttered in a context that contains objective elements of risk to the primary interests combined with neglect by the Chair to meaningfully investigate potential risk – a legitimate concern exists regarding the propriety and integrity of the process as the BOG moves forward, as well as brings into question previous BOG actions.

This follows objectively for when an individual holding a public trust acts in ways that lead to distrust, the consequences impact not only the BOG as a whole, but public confidence is undermined. This is demonstrated by the fact that conflict of interest policies are not designed to investigate individuals, yet because of the failure of the Chair we are now at a point that an investigation of an individual may be necessary – an indication that the entire process has failed. One would have to examine what occurred at the BOG meetings between January 2012 and December 2014 (when many proposals presented to the BOG regarding sheep were presented with no action taken on them). We know, however, that the BOG work session that produced Board Generated Proposals 207 and 208, *and* Mr. Turner's public testimony with regard to significant conflict of interest disclosures, deliberately avoids the many pertinent facts relevant to his appeal, award and again a subsequent appeal to secure exclusive ANWR guide concession ARC 06. Mr. Turner was the awardee of ARC06 in January 2015 when BOG developed proposals 207 and 208; Mr. Turner was the awardee of ARC06 in February 2015 when BOG adopted proposal 207 and deferred proposal 208 to the March (2015) meeting where prop 208 was again deferred for another year to the March 2016 meeting. A review of the BOG and the USFW records will demonstrate the substantive veracity of these claims.

The relevance here is that Mr. Turner's disclosures at the May 28, 2015 BOG meeting continues the pattern of disingenuous disclosures: "*...I cannot anticipate when I*

will guide for Dall sheep in the years to come since I do not have a sheep area of my own or plans for employment as an assistant. Nothing immediately planned at all.” And, “Agenda Change Request 6 proposes to eliminate most nonresident sheep hunters from hunting in Alaska in future years. I believe my previous comments would apply equally to the proposed concepts within Agenda Change Request 6 as well. Since I have no current plans for employment as a sheep guide – I will guide for sheep again in the future I’m sure but I do not currently know when that will be.” This when Mr. Turner held the concession permit for ARC 06 between September 2014 and April 2015 and was in fact actively appealing his loss of that concession when he made those statements in May 2015. That Mr. Spraker failed to follow up with due diligence is easily shown by the fact that he knew of or should have known that Mr. Turner was at that time (and he continues to do so to this day) actively selling sheep hunts via his website: <http://www.alaskan-adventures.net/Price%20List.html> . (**See Exhibit C** “The Hunting Price List”)

Mr. Turner had and continues to have a clear and direct financial interest in whether or not nonresident sheep hunters currently with unlimited sheep hunting opportunity were or are restricted or limited to draw-only sheep permits (regionally or statewide); yet he was allowed to vote on proposals seeking to limit nonresident sheep hunters. Mr. Turner always voted no or to take no action, or as in the BOG-generated proposal 208 actively participated in developing and voting on something favorable to his special (secondary) interests.

We also want to stress that Mr. Turner also had and continues to have a clear and direct financial interest in whether or not *resident* sheep hunters have their sheep hunting opportunities restricted on federal lands. Restriction of resident sheep hunters on federal land but exemptions for nonresident sheep hunters would clearly benefit nonresident sheep hunters and the guides they are required to hire

As a member of the Sheep Working Group (SWG) Mr. Turner is on the record as being strongly opposed to any limits on non-resident hunting. (**See Exhibit D** -- SWG vote tally). This is additional evidence of his lack of impartiality on this issue. Mr. Turner needs to be asked whether or not between January 2013 and January 2016 he was awarded or sought to regain a guide concession permit for ARC 06 in ANWR, and why he failed to disclose this information or recuse himself from voting on issues where he was in clear

conflict of interest due to the fact that beginning on or about January 2012 until January 2016 Mr. Turner either was an applicant for an ANWR exclusive use federal guide concession contract, was appealing the award of a ANWR permit while serving on the BOG, or under award of an ANWR concession contract.

Additionally, it is common knowledge that the Marsh Fork ARC 06 exclusive use guide concession within ANWR (Mr. Turner's main target and interest) is one of the most prestigious and productive federal sheep concessions in the SOA. This concession was an asset he fought hard for, and in fact he is still currently advertising guided sheep hunts in ANWR. In spite of this the BOG Chairman found that Mr. Turner was able to fully participate in meetings where sheep proposals were on the docket without conflict.

Mr. Turner was again appealing the award of ARC06 in May 2015 when the BOG met to consider repealing 207 and when deciding to reverse the BOG's previous decision to deny statewide proposals on sheep and extended the deadline for proposals to June of 2015. Mr. Turner was pursuing the award of ARC 06. Mr. Turner's testimony and ethics disclosure's during for this entire time period are suspect; he phrased his testimony in a carefully nuanced manner that in combination with the Chair's neglect had, in practical effect, misled the public regarding his activity and personal interest swirling around this prime sheep country while acting as a member of the BOG.

And in August 2015 when the Board's subcommittee decided to adopt the SWG model and in October 2015 when Mr. Turner participated in deciding "who" would be among the five residents invited as public members of the SWG, he was pursuing on appeal the award of ARC06. Examination of Mr. Turners website provides evidence of false and misleading advertising which is a violation of Professional Ethics Standards for guides. Such conduct subjects his guide license to being suspended or permanently revoked. Turner's advertising includes specifically "...rights to provide guided hunts of the Nowitna National Wildlife Refuges *as well as portions of the Arctic National Wildlife Refuge*" (emphasis added). This statement amounts to false and misleading advertising.

In addition to his reference to ANWR, Mr. Turner states, "*By working together with others we are also able to provide hunts within the Gates of the Arctic National Park and Preserve and the Izembek National Wildlife Refuge.*" Here Mr. Turner elevates his misleading "*Exclusive Guiding Areas*" advertising theme and provides a reasonable

ground to believe that in this case, "...working together with others..." (See Exhibit E – "Hunting the Last Frontier" at <http://www.alaskan-adventures.net/hunts.htm>) points to the strong possibility that Mr. Turner is colluding with other guides to circumvent the guide use area limitations and standards established in statute and regulation.

Collusion to manipulate the area use limitation system is misconduct. Furthermore; referencing again the above objection to his presence on the BOG, Mr. Turners conduct of misleading and false advertising demonstrates that at least a part of the underlying and perennial issues of overcrowding by guides and excessive take by nonresidents of Alaskan's resources is not in Mr. Turner's primary interest to talk about publicly or be trusted with.

In producing misleading advertising and expressing that Mr. Turner has the authority to sell hunts that provide "exclusive guiding" opportunity and that his business conducts such hunts on multiple federal lands is, given the totality of the circumstances, sufficient reason to examine terminating Mr. Turner's participation on the BOG.

This practice of collusion by guides in advertising and selling of big game hunts to clients for hunts that they, as the advertising guide, are unable to legally sign off on, is likely a more widespread problem within the industry than is widely known. Ironically, while our research into this matter did not find specific regulatory or statutory prohibitions to the practice there can be no doubt the practice does contribute to a lack of trust in a system purported to "limit" guides to three guide use areas.

In conclusion; Nathan Turner should not be representing the public's interest in BOG matters. At the very least he should not be permitted to participate in any board matter that considers the allocation of public resources between residents and non-residents. There is significant objective risk that the primary interests – that of the public good – will be neglected for the secondary interest of Mr. Turner himself.

Sincerely,

Mark Richards
Executive Director Resident Hunters of Alaska