



DAVE YOST

OHIO ATTORNEY GENERAL

Charitable Law Section
Office 614-466-3181
Fax 614-466-9788

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT is made by and between Fraternal Order of Eagles #1403 Aerie (“FOE #1403”), located at 433 E. Court St., Sidney, OH 45365, and the Attorney General of Ohio (“Attorney General”), for the purpose of resolving issues regarding FOE #1403’s charitable bingo operations. Together, the Attorney General and FOE #1403 are referred to hereinafter as “the Parties.”

1. The Attorney General is responsible for the administration of charitable bingo licensure and enforcement of charitable bingo laws under Ohio Revised Code Chapter 2915 (“ORC Chapter 2915”), and the Ohio Administrative Code rules adopted thereunder.
2. The Attorney General is responsible for the administration and enforcement of the Ohio Charitable Organizations Act in Revised Code Chapter 1716 (“ORC Chapter 1716”), and the Ohio Administrative Code rules adopted thereunder, which requires, among other things, that every charitable organization, unless exempt, who intends to solicit contributions in this state by any means or have contributions solicited in this state on its behalf by any person or entity, prior to engaging in any solicitation, shall file a registration statement and other documentation with the Attorney General.
3. The Attorney General is responsible for the administration and enforcement of Ohio Charitable Trust Act in Revised Code Chapter 109 (“ORC 109.23–.33”), and the Ohio Administrative Code rules adopted thereunder, and, in particular, ORC 109.24.
4. The Attorney General has authority to refuse to grant a charitable bingo license to an organization, to revoke or suspend an organization’s license, or to place limits, restrictions, or probationary conditions on an organization’s license for a limited or indefinite period.
5. FOE #1403 is a 501(c)(8) tax-exempt organization with the Internal Revenue Service (“IRS”). FOE #1403 is registered with the Attorney General as required under ORC Chapters 1716 and 109.
6. FOE #1403 was first issued bingo license no. 0058-32 in 2005.
7. At all relevant times, FOE #1403 was licensed to play Type III paper instant bingo and electronic instant bingo conducted other than at a bingo session, Monday through Friday from 1:00 p.m. to 1:00 a.m., and Saturday and Sunday from 12:00 p.m. to 12:00 a.m.
8. On or about June 20, 2023, the Attorney General conducted a compliance inspection of FOE #1403’s electronic instant bingo deposits. The inspection concluded that FOE #1403 failed to deposit all required funds into a checking account devoted exclusively

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- to its electronic instant bingo activities. From November 1, 2022 through April 30, 2023, FOE #1403 failed to deposit \$88,704.90 in its electronic instant bingo checking account.
9. An investigation by the Attorney General concluded that from April 1, 2022 through October 12, 2023, FOE #1403 conducted electronic instant bingo at times not specified on FOE #1403's Type III license on approximately 432 days. Gross profit from this unlicensed activity was \$89,624.50.
 10. On December 13, 2023 the Attorney General sent FOE #1403 a Notice of Intent to Reject and Opportunity for Hearing (the "Notice"). FOE #1403 requested a hearing on the Notice, which was originally scheduled for February 29, 2024 but has been continued to March 19, 2024.

NOW THEREFORE, in consideration of the mutual promises herein expressed, and with intent to be legally bound, the Parties agree as follows:

- A. FOE #1403 shall pay to the Attorney General's Office, upon execution of this SETTLEMENT AGREEMENT, a Civil Penalty Amount of \$89,624.50 (eighty-nine thousand six hundred twenty-four dollars and fifty cents) payable as follows:
 - a. An initial payment of \$44,812.50 (forty-four thousand eight hundred and twelve dollars and fifty cents) due on execution of this SETTLEMENT AGREEMENT; and
 - b. An additional payment of \$44,812.00 (forty-four thousand eight hundred and twelve dollars and fifty cents) due on June 1, 2024.

Nothing in this Paragraph should be construed to limit early payments by FOE #1403.

- B. FOE #1403 agrees that the Civil Penalty Amount shall come exclusively from FOE #1403's general operating account by check, cashier's check, or money order payable to Treasurer, State of Ohio and mailed to:

Ohio Attorney General, Charitable Law Section
Finance Department – CL
30 East Broad Street, 25th Floor
Columbus, Ohio 43215
RE: FOE 1403 Settlement/Charitable Law

The funds will be deposited into the charitable law fund established under ORC 109.32.

- C. If FOE #1403 fails to comply with the payment requirements above, the Attorney General shall certify the unpaid balance of the payment to the Ohio Attorney General's Collections Enforcement Section ("Collections") for collection. In the event of certification, FOE #1403 agrees to pay additional collection costs assessed by

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Collections in accordance with Ohio Revised Code Section 131.02(A) equal to the amounts charged pursuant to Ohio Revised Code Sections 109.08 and 109.081 for the cost of certification and the use of Special Counsel for the collection of the debt. Interest shall also be charged upon certification in accordance with Ohio Revised Code Section 131.02(D). Nothing in this paragraph should be construed to limit the Attorney General's discretion to pursue any other available remedy.

- D. FOE #1403 agrees that the primary bingo operator, bingo records custodian, and at least one other bingo volunteer shall complete Bingo School no later than August 30, 2024. The individuals completing bingo school shall be those identified on FOE #1403's most recent bingo license application or as modified. Although attendance at Bingo School is free, participants must register in advance <https://charitable.ohioago.gov/Charitable-Webinars> or by calling (614) 466-3180.
- E. FOE #1403 agrees that the trustees and secretary shall complete Charitable University no later than May 31, 2024. The individuals completing Charitable University shall include those identified on FOE #1403's most recent bingo license application or as modified.
- F. FOE #1403 agrees that if it fails to comply with requirements in Paragraph A through E above, it will, as applicable, surrender its then existing charitable bingo license and/or charitable bingo temporary permit to the Attorney General as well as request, in writing, the withdrawal of any charitable bingo license applications it has pending or refrain from initiating an application for the current year.
- G. FOE #1403 agrees to comply with all state and federal laws relating to charitable gaming, and to fully cooperate with all state and federal authorities conducting investigations of FOE #1403's charitable gaming operations.
- H. FOE #1403 agrees to comply with the requirements of ORC Chapter 2915, and any Ohio Administrative Code rules adopted thereunder.
- I. FOE #1403 agrees to comply with the requirements of ORC Chapter 1716, and any Ohio Administrative Code rules adopted thereunder.
- J. FOE #1403 agrees to comply with the requirements of ORC 109.23-.33, and any Ohio Administrative Code rules adopted thereunder.
- K. FOE #1403 agrees that if it fails to comply with the terms of this SETTLEMENT AGREEMENT, it may be subject to revocation, suspension, denial, additional limitations or restrictions, and probationary terms under ORC Chapter 2915.
- L. The Attorney General will not consider the facts stated above when issuing charitable bingo licenses to FOE #1403 in the future unless FOE #1403 fails to comply with any provision of this SETTLEMENT AGREEMENT. In that event, the Attorney General may consider the facts giving rise to this SETTLEMENT AGREEMENT when

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determining whether to issue or deny future bingo licenses to FOE #1403 and may move to revoke, suspend, deny, place limitations or probationary terms on FOE #1403's Charitable Bingo License or application based on those facts.

- M. Upon execution of this SETTLEMENT AGREEMENT, FOE #1403 will withdraw its request for hearing, and the Attorney General will request that the case be remanded to the Attorney General. Upon remand, the Attorney General will dismiss the Notice and issue Eagles #1403's 2023 bingo license.
- N. FOE #1403 agrees that any evidence of a violation of this SETTLEMENT AGREEMENT shall be *prima facie* evidence of FOE #1403's violation of the applicable laws related to charitable gaming, ORC Chapter 2915, ORC Chapter 1716, ORC 109.23-.33, or any Ohio Administrative Code rules adopted under any of those code provisions, in any subsequent action or proceeding brought by the Attorney General.
- O. This SETTLEMENT AGREEMENT is binding upon the Parties, and any and all successors, assigns, subsidiaries, agents, employees, or representatives of the Parties or any other affiliates. Any breach of this SETTLEMENT AGREEMENT by FOE #1403 will discharge the Attorney General from any obligations under the terms of this SETTLEMENT AGREEMENT, but will not discharge FOE #1403 from any obligation it has under this SETTLEMENT AGREEMENT.
- P. This SETTLEMENT AGREEMENT is a limit, restriction, or probationary condition on FOE #1403's 2023 charitable bingo license.
- Q. By signing this SETTLEMENT AGREEMENT, the Attorney General is not waiving any rights he has to conduct further investigations of FOE #1403 and to initiate an action against FOE #1403 for further violations of ORC Chapter 2915, ORC Chapter 1716, ORC 109.23-.33, or any Ohio Administrative Code rules adopted under any of those code provisions.
- R. This SETTLEMENT AGREEMENT may be modified in writing by the Parties. Modifications are at the sole discretion of the Attorney General.
- S. The Parties have read and understand this SETTLEMENT AGREEMENT and have entered into the same knowingly, voluntarily, and with the opportunity to gain advice of counsel.
- T. This SETTLEMENT AGREEMENT supersedes any and all prior agreements between the Parties.
- U. This SETTLEMENT AGREEMENT is entered into by both Parties and may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. It shall be considered binding and effective upon the date of the last signature of all requisite Parties and individuals.

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The Parties to this SETTLEMENT AGREEMENT have either executed it or caused it to be executed by their duly authorized representatives as evidenced by the signatures below:

FOE #1403

Robert L. Elmer 3/14/24
Date

By: ROBERT ELSNER (Print Name)

Its: SECRETARY (Organizational Title)

Thomas Homan 3/14/24
Date

By: THOMAS HOMAN (Print Name)

Its: TRUSTEE (Organizational Title)

OHIO ATTORNEY GENERAL, DAVE YOST

By: Daniel W. Fausey 03/19/24
Date
Daniel W. Fausey
Section Chief, Charitable Law Section