

**OHIO ATTORNEY GENERAL
CHARITABLE LAW SECTION**

IN THE MATTER OF:

JASC Inc.
c/o Robert Sayre, Statutory Agent
710 St. Rt. 181
Crestline, OH 44827

December 22, 2023

JASC Inc.
1400 St Rt 314 North
Mansfield, OH 44903

EIN: 45-4779729
Bingo License No.: 0043-36

NOTICE OF INTENT TO REJECT AND OPPORTUNITY FOR HEARING

INTRODUCTION & JURISDICTION

Notice is hereby given that, pursuant to Ohio Revised Code (“O.R.C.”) Section 2915.08(F), the Attorney General intends to reject the 2023 Bingo License Application submitted by JASC Inc. (“JASC”). In accordance with the provisions of O.R.C. Sections 119.06 and 119.07, you are hereby notified that you are entitled to a hearing.

JASC was first issued bingo license no. 0043-36 in 2016. The organization has been authorized to conduct bingo for subsequent years since it was first licensed. On or about December 27, 2022, JASC filed a 2023 bingo license application. It updated the application on June 22, October 2, and October 5, 2023. JASC was issued a 2023 Temporary Permit on January 6, 2023.

The issuance of the temporary permit does not grant any rights to JASC other than those granted in O.R.C. 119.06 and does not prohibit the Attorney General from rejecting JASC’s application. O.R.C. 2915.08(D).

On March 2, 2023, JASC filed its 2022 Annual Report with the Ohio Attorney General’s Office. The IRS revoked JASC’s 501(c)(3) federal income tax-exempt status on or about March 15, 2023 and reinstated the organization’s tax-exempt status on or about November 16, 2023.

Notice is hereby given that the Attorney General intends to reject the 2023 Bingo License Application submitted by JASC for the following reason:

COUNT 1

Charitable organizations who desire to conduct bingo must not make any incorrect or false statements in their applications for bingo licenses.

On JASC's original application submitted on or about December 27, 2022, and updated applications submitted on June 22, 2023 and October 2, 2023, JASC identified Bob Sayre as JASC's President, as the Principal Person of the Charitable Organization, and as the Primary Bingo Game Operator at multiple locations. Upon information and belief, these statements were materially false.

On JASC's original application submitted on or about December 27, 2022, and updated applications submitted on June 22, 2023 and October 2, 2023, JASC identified 710 St. Rt. 181, Crestline, OH 44827 as its principal and mailing address. Upon information and belief, that statement is materially false.

On JASC's updated applications filed on or about June 22, 2023, October 2, 2023, and October 5, 2023, JASC stated that it is an organization exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code. Those statements were materially false when made.

Ohio Revised Code section 2915.08(F)(2)(b) states "The attorney general may refuse to grant a license to the organization, may revoke or suspend the organization's license, or may place limits, restrictions, or probationary conditions on the organization's license for a limited or indefinite period, as determined by the attorney general" if "the organization makes or has made an incorrect or false statement that is material to the granting of the license in an application filed under this section."

COUNT 2

Under R.C. 2915.08(C)(3) a licensee shall "conduct bingo...within the county in which the principal place of business of the applicant is located."

Upon information and belief, JASC's principal place of business is and has at all times in 2022 and 2023 been located within Richland County, Ohio. However, in 2022 and 2023, JASC conducted instant bingo at locations in Crawford County, Ohio.

The Attorney General intends to reject JASC's charitable bingo license application because the Attorney General has good cause to believe that JASC will not conduct bingo in accordance with R.C. 2915.08(C)(3) and 2915.091(A)(3).

COUNT 3

Corporate officers and directors, and the trustees of a charitable trust, are subject to fiduciary duties. *See, e.g., Morris v. Mull*, 110 Ohio St. 623, 628 (1924); *Heaton v. Rohl*, 193 Ohio App.3d 770, 2011-Ohio-2090, ¶ 47 (11th Dist.); *Koos v. Cent. Ohio Cellular, Inc.*, 94 Ohio App.3d 579, 589, 641 N.E.2d 265 (8th Dist. 1994); O.R.C. 109.23(A); O.R.C. 1716.17.

Fiduciary duty requires that a trustee place the interest of the charity above any personal interest and that a trustee act with the highest standard of integrity, scrupulous fairness, and honesty. In re Binder's Estate, 137 Ohio St. 26, 37-38, 27 N.E.2d 939, 947 (1940). As part of these duties, "[a] fiduciary of a charity has a duty to act in good faith with the care a person of ordinary prudence in a like position would exercise under similar circumstances." Restat. of the Law, Charitable Nonprofit Org TD. 1 § 2.03(a) (2013); R.C. 1702.30(B).

Dawn Thornsberry, Craig Thornsberry, and Jason Kearns, jointly and separately as directors and/or officers, are fiduciaries of JASC. Under O.R.C. Section 2915.08(F)(3), the Attorney General may refuse to grant a license to an organization for up to five years if he "has good cause to believe that any director or officer of the organization has breached the director's or officer's fiduciary duty to, or committed theft or any other type of misconduct related to, the organization." The Attorney General has good cause to believe the directors and/or officers of JASC have breached their fiduciary duties to JASC and/or committed other misconduct by:

1. Failing to maintain 501(c)(3) tax-exempt status with the IRS.
2. Filing annual reports with the Attorney General's Office that falsely report Robert Sayre was a director/officer of JASC in fiscal year 2022 and falsely report the number of JASC's board meetings in fiscal year 2022.
3. Filing an original application and amended applications for a 2023 bingo license that falsely state Robert Sayre was a director and/or officer of JASC, and that falsely state JASC was IRS 501(c)(3) tax-exempt as of June 2023 and October 2023.

Accordingly, the Attorney General intends to refuse to grant JASC's application for a 2023 bingo license for failure to meet the requirements set forth in O.R.C. 2915.08(F)(3).

LAWS AND RULES

An applicant for a bingo license "shall, at all times, have the burden of demonstrating to the attorney general, by clear and convincing evidence, that the applicant is eligible, qualified, and suitable to be granted and retain the license or endorsement for which application is made under the applicable standards and requirements of Chapter 2915. of the Revised Code and Chapter 109:1 of the Ohio Administrative Code]". Ohio Administrative Code ("O.A.C.") 109:1-4-02(B). "Licensees have a continuing obligation to demonstrate suitability to hold a license or endorsement by complying with Chapter 2915. of the Revised Code, [Chapter 109:1 of the Administrative Code], and all federal, state, and local laws relating to the suitability of the licensee." O.A.C. 109:1-4-02(E).

Ohio Revised Code section 2915.08(F)(2) states "If any of the following applies to an organization, the attorney general may refuse to grant a license to the organization, may revoke or suspend the organization's license, or may place limits, restrictions, or probationary conditions on the organization's license for a limited or indefinite period, as determined by the attorney general:

- (a) The organization fails or has failed at any time to meet any requirement of section 109.26, 109.31, or 1716.02, or sections 2915.07 to 2915.15 of the Revised Code, or violates or has violated any provision of sections 2915.02 or 2915.07 to 2915.13 of the Revised Code or any rule adopted by the attorney general pursuant to this chapter.
- (b) The organization makes or has made an incorrect or false statement that is material to the granting of the license in an application filed under this section.
- (c) The organization submits or has submitted any incorrect or false information relating to an application if the information is material to the granting of the license.
- (d) The organization maintains or has maintained any incorrect or false information that is material to the granting of the license in the records required to be kept pursuant to section 2915.10 of the Revised Code, if applicable.
- (e) The attorney general has good cause to believe that the organization will not conduct bingo in accordance with sections 2915.07 to 2915.15 of the Revised Code or with any rule adopted by the attorney general pursuant to this chapter.”

Ohio Revised Code section 2915.08(F)(3) further states, “If the attorney general has good cause to believe that any director or officer of the organization has breached the director's or officer's fiduciary duty to, or committed theft or any other type of misconduct related to, the organization or any other charitable organization that has been issued a bingo license under this chapter, the attorney general may refuse to grant a license to the organization, may impose limits, restrictions, or probationary conditions on the license, or may revoke or suspend the organization's license for a period not to exceed five years.”

Finally, under O.R.C. 2915.08(F)(4), “The attorney general may impose a civil fine on an organization licensed or permitted under this chapter for failure to comply with any restrictions, limits, or probationary conditions on its license, and for failure to comply with this chapter or any rule adopted under this chapter, according to a schedule of fines that the attorney general shall adopt in accordance with Chapter 119. of the Revised Code.”

HEARING PROCEDURES

Pursuant to the Administrative Procedure Act, Ohio Revised Code Section 119.07, an Applicant who has been issued a Notice of Intent to Reject and Opportunity for Hearing may request a hearing before the Charitable Law Section of the Office of the Ohio Attorney General within thirty (30) days of the time of service of the Notice. **The request for a hearing must be received by the Charitable Law Section of the Office of the Ohio Attorney General within thirty (30) days of the service of this Notice.**

The Applicant may appear in person, by his or her attorney, or by such other representative who is permitted to practice before the Ohio Attorney General's Office. The Applicant may present evidence and examine witnesses appearing for and against the Applicant or may present a position, argument and contentions in writing in lieu of appearing at the hearing. A hearing may be

continued on motion of either the Attorney General or the Applicant, if the Attorney General so approves.

Failure to request a hearing within the time prescribed may result in the Attorney General issuing an adjudication order regarding the application without conducting a formal hearing in the matter.

Requests for a hearing upon the Notice of Intent to Reject and Opportunity for Hearing must be submitted to the undersigned at the address listed below.

Very respectfully yours,

DAVE YOST
ATTORNEY GENERAL



Thaddius Townsend
Assistant Section Chief
Ohio Attorney General's Office
Charitable Law Section
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Via Kiteworks E-Mail to: Steve Ackerman and Dawn Thornsberry at tsdmc@yahoo.com
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