



**DAVE YOST**

OHIO ATTORNEY GENERAL

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

December 22, 2021

EPT, LLC d/b/a NexLevel Gaming  
c/o B. & MCD., INC., Statutory Agent  
388 S. Main Street, Suite 500  
Akron OH 44311

**Re: Notice of Intent to Revoke, Restrict and/or Limit Distributor License and to Impose Civil Fines and Opportunity for Hearing**

Members and Operatives:

Enclosed is a Notice of Intent to Revoke, Restrict and/or Limit Distributor License and to Impose Civil Fines and Opportunity for Hearing. Please read it carefully as the information contained within concerns EPT, LLC d/b/a NexLevel Gaming's bingo distributor license. Be advised if you would like to request a hearing on this matter, **you must do so within 30 days of the mailing of this Notice.**

Thank you for your time and attention to this matter.

Very respectfully yours,

DAVE YOST  
Ohio Attorney General

Daniel W. Fausey  
Section Chief  
Ohio Attorney General's Office  
Charitable Law Section  
30 E. Broad Street, 25<sup>th</sup> Floor  
Columbus, Ohio 43215-5148  
(614) 466-3181

Enclosure  
Certified Mail No. 7018 1830 0000 2709 0471

**OHIO ATTORNEY GENERAL  
CHARITABLE LAW SECTION**

IN THE MATTER OF:

EPT, LLC d/b/a NexLevel Gaming  
c/o B. & MCD., INC., Statutory Agent  
388 S. MAIN STREET, SUITE 500  
AKRON OH 44311

December 22, 2021

EIN: 85-2950505  
License No: D-01003

**NOTICE OF INTENT TO REVOKE, RESTRICT AND/OR LIMIT DISTRIBUTOR  
LICENSE AND TO IMPOSE CIVIL FINES AND OPPORTUNITY FOR HEARING**

**INTRODUCTION & JURISDICTION**

Notice is hereby given that, pursuant to Ohio Revised Code (“R.C.”) Section 2915.081(F)(1), the Attorney General intends to revoke, restrict and/or limit the Bingo Distributor License of EPT, LLC d/b/a NexLevel Gaming (“NexLevel”) and to impose civil fines upon NexLevel. In accordance with the provisions of R.C. Sections 119.06 and 119.07, you are hereby notified that you are entitled to a hearing.

NexLevel was first issued Bingo Distributor License No. D-01003 on or about May 3, 2021. Since that time, NexLevel has been authorized to sell, offer to sell, or otherwise provide or offer to provide bingo supplies to licensed charitable organizations in Ohio. The issuance of NexLevel’s License does not prohibit the Attorney General from revoking, restricting and/or limiting NexLevel’s License and imposing civil fines upon NexLevel. R.C. 2915.081(G); R.C. 2915.081(I).

Beginning on or about January 1, 2022, the Attorney General will consider applications for electronic instant bingo (“e-bingo”) endorsements to existing and new distributor bingo licenses. Also on or after January 1, 2022, veteran’s organizations and fraternal organizations may apply for licenses to conduct e-bingo – although e-bingo licenses will not be issued until on or after April 1, 2022<sup>1</sup>

A distributor may not offer to sell or offer to provide e-bingo systems until (1) the distributor has applied for and received an e-bingo endorsement to its license, (2) the offeree has applied for and

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<sup>1</sup> Am. Sub. H.B. No. 110, § 803.20, available at [https://search-prod.lis.state.oh.us/solarapi/v1/general\\_assembly\\_134/bills/hb110/EN/07/hb110\\_07\\_EN?format=pdf](https://search-prod.lis.state.oh.us/solarapi/v1/general_assembly_134/bills/hb110/EN/07/hb110_07_EN?format=pdf) (“The Attorney General shall begin to accept applications for licenses to conduct electronic instant bingo under Chapter 2915. of the Revised Code, as amended by this act, on January 1, 2022, and shall begin to issue those licenses on April 1, 2022.”)

received a license to conduct e-bingo, and (3) the e-bingo system has been approved by the Attorney General. R.C. 2915.081(E)(1); R.C. 2915.081(F)(1); R.C. 2915.14(C).

Upon information and belief, NexLevel offered to sell or offered to provide an e-bingo system to one or more veteran's and fraternal organizations including, without limitation, to American Legion Post #78 on or about November 3, 2021. Upon information and belief, NexLevel also has offered to sell or to provide e-bingo systems to other veteran's and fraternal organizations. At present, and at all times relevant, none of the veteran's and fraternal organizations are licensed to conduct e-bingo, NexLevel has not received an e-bingo endorsement to NexLevel's License, and the e-bingo systems have not been approved. NexLevel has been offering to sell e-bingo systems that it cannot lawfully sell, to veteran's and fraternal organizations, that also cannot lawfully accept e-bingo systems.

**Notice is hereby given that the Attorney General intends to revoke, restrict and/or limit NexLevel's bingo distributor license and to impose civil fines for the following reasons:**

**COUNT 1**

"No distributor shall knowingly sell, offer to sell, or otherwise provide or offer to provide an electronic instant bingo system to any person for use in this state, or install, maintain, update, or repair an electronic instant bingo system, without first obtaining an electronic instant bingo distributor endorsement to the person's distributor license..." R.C. 2915.081(F)(1).

If a distributor unlawfully sells or offers to sell or otherwise provides or offers to provide an electronic instant bingo system, the Attorney General "may suspend, place limits, restrictions, or probationary conditions on, or revoke a distributor license or an electronic instant bingo distributor endorsement, for a limited or indefinite period of time at the attorney general's discretion..." R.C. 2915.081(G)(2).

On or about November 3, 2021, NexLevel did knowingly offer to sell or provide an e-bingo system to one or more veteran's or fraternal organizations, including, without limitation, American Legion Post #78. NexLevel did not and does not have an e-bingo endorsement on NexLevel's License. Therefore, NexLevel was and is prohibited from making offers to sell or otherwise provide e-bingo systems in Ohio.

The attorney general may suspend, place limits, restrictions, or probationary conditions on, or revoke a distributor license or an electronic instant bingo distributor endorsement, for a limited or indefinite period of time at the attorney general's discretion because NexLevel violated the provisions of Revised Code Chapter 2915 by offering to sell or otherwise provide e-bingo systems without an e-bingo endorsement. R.C. 2915.081(G)(2).

In addition, the Attorney General intends to impose a civil fine on NexLevel for failure to comply with the provisions of Chapter 2915. R.C. 2915.081(I); O.A.C. 109:1-6-03.

**COUNT 2**

“No distributor shall sell, offer to sell, or otherwise provide or offer to provide bingo supplies to any person, or modify, convert, add to, or remove parts from bingo supplies to further their promotion or sale, for use in this state except to or for the use of a charitable organization that has been issued a license under section 2915.08 of the Revised Code or to another distributor that has been issued a license under this section.” R.C. 2915.081(E)(1). “Bingo supplies” include, without limitation, e-bingo systems. R.C. 2915.01(Z).

On or about November 3, 2021, NexLevel did knowingly offer to sell or provide e-bingo systems to one or more veteran’s or fraternal organizations that have not been issued e-bingo licenses, including, without limitation, American Legion Post #78. No veteran’s or fraternal organizations have been issued e-bingo licenses. Therefore, NexLevel was and is prohibited from making offers to sell or otherwise provide e-bingo systems to veteran’s and fraternal organizations in Ohio.

The attorney general may suspend, place limits, restrictions, or probationary conditions on, or revoke a distributor license or an electronic instant bingo distributor endorsement, for a limited or indefinite period of time at the attorney general's discretion because NexLevel violated the provisions of Revised Code Chapter 2915 by offering to sell or otherwise provide e-bingo systems to one or more veteran’s or fraternal organizations that have not been issued e-bingo licenses. R.C. 2915.081(G)(2).

In addition, the Attorney General intends to impose a civil fine on NexLevel for failure to comply with the provisions of Chapter 2915. R.C. 2915.081(I); O.A.C. 109:1-6-03.

**COUNT 3**

“No person shall sell, offer to sell, or otherwise provide or offer to provide an electronic instant bingo system to any person for use in this state unless the electronic instant bingo system has been approved under section 2915.15 of the Revised Code.” R.C. 2915.14(C).

On or about November 3, 2021, NexLevel did knowingly offer to sell or provide unapproved e-bingo systems to one or more persons, including, without limitation, American Legion Post #78. The Attorney General has not approved any e-bingo systems for NexLevel under R.C. 2915.15. Therefore, NexLevel was and is prohibited from making offers to sell or otherwise provide unapproved e-bingo systems to any person in Ohio.

The attorney general may suspend, place limits, restrictions, or probationary conditions on, or revoke a distributor license or an electronic instant bingo distributor endorsement, for a limited or indefinite period of time at the attorney general's discretion because NexLevel violated the provisions of Revised Code Chapter 2915 by offering to sell or otherwise provide unapproved e-bingo systems to one or more persons. R.C. 2915.081(G)(2).

In addition, the Attorney General intends to impose a civil fine on NexLevel for failure to comply

with the provisions of Chapter 2915. R.C. 2915.081(I); O.A.C. 109:1-6-03.

### LAWS AND RULES

Ohio Revised Code section 2915.081(G)(1) & (2) state that “the attorney general may suspend, place limits, restrictions, or probationary conditions on, or revoke a distributor license or an electronic instant bingo distributor endorsement, for a limited or indefinite period of time at the attorney general's discretion, for any of the following reasons:

- (1) Any reason for which the attorney general may refuse to issue the license or endorsement;
- (2) The distributor holding the license or endorsement violates any provision of this chapter or any rule adopted by the attorney general under this chapter....”

Ohio Revised Code section 2915.081(I) states that “the attorney general may impose a civil fine on a distributor licensed or permitted under this chapter for failure to comply with any restrictions, limits, or probationary conditions on its license, or 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.”

Ohio Administrative Code section 109:1-6-03 states that “a fine may be assessed on a Licensed Organization, Licensed Distributor, or Licensed Manufacturer and shall be paid by the Licensed Organization, Licensed Distributor, or Licensed Manufacturer within thirty days of receipt of notice of the fine from the attorney general.

(B) Without in any manner limiting the authority of the attorney general to impose the type and level of sanction it may consider appropriate, the attorney general may take into consideration:

- (1) The risk to the public and to the integrity of charitable bingo in this state by the conduct of the Licensed Organization, Licensed Distributor, or Licensed Manufacturer;
- (2) Any criteria or factor listed in Chapter 2915. of the Revised Code and any rules adopted thereunder;
- (3) Whether the Licensed Organization, Licensed Distributor, or Licensed Manufacturer engaged in any misrepresentation or material omission;
- (4) Whether the Licensed Organization, Licensed Distributor, or Licensed Manufacturer engaged in any fraudulent act;

(5) Whether the Licensed Organization, Licensed Distributor, or Licensed Manufacturer failed to cooperate with the attorney general;

(6) Whether the Licensed Organization, Licensed Distributor, or Licensed Manufacturer failed to comply with all terms and conditions of a settlement agreement or agreed order with the attorney general, and any subsequent amendments or modifications thereto;

(7) Whether the Licensed Organization, Licensed Distributor, or Licensed Manufacturer or any person involved with the Licensed Organization, Licensed Distributor, or Licensed Manufacturer has had a license related to gambling revoked or suspended under the laws of this state, another state, or the United States; or

(8) Any other factors the attorney general may consider relevant.

(C) The attorney general may consider the Licensed Organization's, Licensed Distributor's, or Licensed Manufacturer's finances in determining the amount of the fine. If the alleged violation is the result of or results in the unlawful obtainment or retention of any money or property, the attorney general may, in addition to any other penalty or fine levied under Chapter 2915. of the Revised Code or any rules adopted thereunder, impose a fine in an amount equal to the money or value of the property that was unlawfully obtained or retained."

### **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 Revoke, Restrict, and/or Limit and to Impose Civil Fine 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 the mailing 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 mailing 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.

IN THE MATTER OF:  
EPT, LLC d/b/a NexLevel Gaming  
Page 6 of 6

Requests for a hearing upon the Notice of Intent to Revoke, Restrict, and/or Limit and to Impose Civil Fine and Opportunity for Hearing must be submitted to the undersigned at the address listed below.

Very respectfully yours,

DAVE YOST  
ATTORNEY GENERAL



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Daniel W. Fausey  
Section Chief  
Ohio Attorney General's Office  
Charitable Law Section  
30 E. Broad Street, 25th Floor  
Columbus, Ohio 43215  
(614) 466-3181

Certified Mail No. 7018 1830 0000 2709 0471