



June 17, 2022

The Wickliffe Eagles, F.O.E. Aerie 4086
29107 Euclid Ave.
Wickliffe, OH 44092

Re: **Notice of Intent to Issue License with Limitation and Restrictions
and Opportunity for Hearing**

Members and Operatives:

Enclosed is a Notice of Intent to Issue License with Limitation and Restrictions and Opportunity for Hearing. Please read it carefully as the information contained within concerns The Wickliffe Eagles, F.O.E. Aerie 4086's bingo 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.**

Alternatively, your counsel has advised that the schemes of chance at issue in this Notice have already been removed from your premises. If this is the case, the Office is prepared to enter into a Settlement Agreement with your organization. A proposed agreement is attached for your consideration. If you agree to its terms, please sign and return the signature page to AAG Nelson.

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, 25th Floor
Columbus, Ohio 43215
(614) 466-3181

Enclosures

CC: Megan N. Nelson, Assistant Attorney General (Megan.Nelson@OhioAGO.gov)

**OHIO ATTORNEY GENERAL
CHARITABLE LAW SECTION**

June 17, 2022

IN THE MATTER OF:

The Wickliffe Eagles, F.O.E. Aerie 4086
29107 Euclid Ave.
Wickliffe, OH 44092

EIN: 34-1430462
Bingo License No.: 0273-32

**NOTICE OF INTENT TO ISSUE LICENSE WITH LIMITATIONS AND
RESTRICTIONS AND OPPORTUNITY FOR HEARING**

INTRODUCTION AND JURISDICTION

Notice is hereby given that, pursuant to Ohio Revised Code (“R.C.”) Section 2915.08(F), the Attorney General intends to issue The Wickliffe Eagles, F.O.E. Aerie 4086’s (“FOE #4086”) 2022 Charitable Bingo License with the following limitations and restrictions:

- FOE #4086 will not be licensed to conduct electronic instant bingo unless and until the schemes of chance observed by the Office of the Attorney General are removed from service.

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.

FOE #4086 was first issued bingo license no. 0273-32 in 2003. On or about December 19, 2021, FOE #4086 filed a 2022 bingo license application. It amended the application on April 14, 2022. The Office issued FOE #4086’s 2022 Temporary Charitable Bingo License on December 27, 2021.

On or about February 8, 2022 the Office conducted an electronic instant bingo pre-licensing inspection of FOE #4086. During that inspection, the Office’s inspector identified illegal schemes of chance.

Notice is hereby given that the Attorney General intends to issue FOE #4086’s 2022 Charitable Bingo License with limitations and restrictions for the following reasons:

COUNT 1

Under R.C. 2915.02(A)(2) “no person shall...establish, promote, or operate or knowingly engage

in conduct that facilities...any scheme of chance.”

A scheme of chance is defined, in part, as a “a slot machine unless authorized under Chapter 3772 of the Revised Code.” R.C. 2915.01(C). A slot machine includes “(a) Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain; (b) Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct bingo or a scheme or game of chance.” R.C. 2915.01(QQ)(1).

Upon information and belief, FOE #4086’s gaming devices are electronic, video, and/or digital devices, the devices are capable of accepting cash or a cash equivalent from players, and players hope to win cash or a cash equivalent in return. See also Ohio Casino Control Commission, *Legality of “pre-reveal” and “no-chance” electronic gambling devices* (June 2018), https://casinocontrol.ohio.gov/Portals/0/Skill%20Games/OCCC_Pre_reveal_whitepaper_June2018.pdf (“Unless otherwise expressly authorized under Ohio law, every mechanical, electronic, video, or digital gaming device is a slot machine, unless it is a ‘skill-based amusement machine.’”).

Alternatively, scheme of chance is defined to include “the use of an electronic device to reveal the results of a game entry if valuable consideration is paid, directly or indirectly, for a chance to win a prize.” R.C. 2915.01(C). An “electronic device” includes a “video, digital, or electronic machine or device that is capable of displaying information on a screen” Id. Upon information and belief, FOE #4086’s gaming devices are electronic devices that will reveal the result of a game only if the player pays some amount of money, and players hope to win cash prizes in return. Therefore, FOE #4086’s gaming devices are also schemes of chances under this definition.

The attorney general intends to restrict FOE #4086’s 2022 charitable bingo license to prohibit electronic instant bingo because it has violated R.C. 2915.02(A)(2).

LAWS AND RULES

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 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 Issue License with Limitations and Restrictions 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.

Requests for a hearing upon the Notice of Intent to Issue License with Limitations and Restrictions and Opportunity for Hearing must be submitted to the undersigned at the address listed below.

Very respectfully yours,

DAVE YOST
ATTORNEY GENERAL



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: 7014 3490 0000 7998 3114



SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT is made by and between The Wickliffe Eagles, F.O.E. Aerie 4086's ("FOE #4086"), located at 29107 Euclid Ave., Wickliffe, OH 44092 and the Attorney General of Ohio ("Attorney General"), for the purpose of resolving issues regarding FOE #4086's charitable bingo operations. Together, the Attorney General and FOE #4086 are referred to hereinafter as "the parties."

1. The Attorney General is responsible for the administration and enforcement of Ohio Revised Code Section 2915 ("ORC 2915 *et seq.*"), and the Ohio Administrative Code rules adopted thereunder, which regulate the conduct of charitable bingo in the state of Ohio;
2. The Attorney General is responsible for the enforcement of Ohio Revised Code Section 1716 ("ORC 1716 *et seq.*"), 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 enforcement of Ohio Revised Code Section 109 ("ORC 109.23-33"), and the Ohio Administrative Code rules adopted thereunder, and, in particular, ORC 109.24, which reads, "[t]he Attorney General shall institute and prosecute a proper action to enforce the performance of any charitable trust and to restrain the abuse of it";
4. The Attorney General has authority to refuse to grant a charitable bingo license to an 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.
5. FOE #4086 is a 501(c)(8) tax exempt organization with the Internal Revenue Service ("IRS"). FOE #4086 is registered with the Attorney General as required under ORC Sections 1716 and 109;
6. FOE #4086 was first issued bingo license no. 0273-32 in 2003;
7. On or about December 19, 2021, FOE #4086 filed a 2022 bingo license application. It amended the application on April 14, 2022. The Office issued FOE #4086's 2022 Temporary Charitable Bingo License on December 27, 2021;

8. A compliance inspection conducted by the Ohio Attorney General's Office at 29107 Euclid Ave., Wickliffe, OH 44092 identified electronic gaming machines that are schemes of chance;
9. FOE #4086 has represented to the Ohio Attorney General's Office that the schemes of chance have been permanently removed from 29107 Euclid Ave., Wickliffe, OH 44092.

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

- A. FOE #4086 will never again operate no chance machines, or allow any no chance machines to be stored or located at 29107 Euclid Ave., Wickliffe, OH 44092;
- B. FOE #4086 shall pay a civil penalty in the amount of \$5,000 (five thousand dollars). The Attorney General agrees to STAY \$5,000 (five thousand dollars) upon full compliance of the terms of this SETTLEMENT AGREEMENT. The Attorney General has sole authority to determine whether FOE #4086 has fully complied with this SETTLEMENT AGREEMENT. Should the Attorney General determine that FOE #4086 has failed to comply with this SETTLEMENT AGREEMENT, the fully civil penalty amount shall be payable upon demand;
- C. If FOE #4086 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 #4086 agrees to pay additional collection costs assessed by 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 #4086 agrees that all money used to fulfill the terms of this SETTLEMENT AGREEMENT shall come exclusively from FOE #4086's general operating account;
- E. FOE #4086 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 #4086's charitable gaming operations;
- F. FOE #4086 agrees to comply with the requirements of ORC 2915 *et seq.*, and any Ohio Administrative Code rules adopted thereunder;
- G. FOE #4086 agrees to comply with the requirements of ORC 1716 *et seq.* (the Ohio Charitable Organizations Act), and any Ohio Administrative Code rules adopted thereunder;

- H. FOE #4086 agrees to comply with the requirements of ORC 109.23-109.33 (the Charitable Trust Act), and any Ohio Administrative Code rules adopted thereunder;
- I. The Attorney General will not consider the facts giving rise to this SETTLEMENT AGREEMENT when issuing charitable bingo licenses to FOE #4086 in the future unless FOE #4086 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 determining whether to issue or deny future bingo licenses to FOE #4086 and may move to revoke, suspend, deny, place limitations or probationary terms on FOE #4086's Charitable Bingo License or application based on those facts;
- J. FOE #4086 agrees that any evidence of a violation of this SETTLEMENT AGREEMENT shall be *prima facie* evidence of FOE #4086's violation of the applicable laws related to charitable gaming, ORC 2915 *et seq.*, ORC 1716 *et seq.*, ORC 109.23-109.33, or any Ohio Administrative Code rules adopted thereunder, in any subsequent action or proceeding brought by the Attorney General;
- K. This SETTLEMENT AGREEMENT is binding upon the parties, 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 #4086 will discharge the Attorney General from any obligations under the terms of this SETTLEMENT AGREEMENT, but will not discharge FOE #4086 from any obligation it has under this SETTLEMENT AGREEMENT;
- L. By signing this SETTLEMENT AGREEMENT, the Attorney General is not waiving any rights he has to conduct further investigations of FOE #4086 and to initiate an action against FOE #4086 for further violations of ORC 2915 *et seq.*, ORC 1716 *et seq.*, ORC 109.23-33, or any Ohio Administrative Code rules adopted thereunder;
- M. This SETTLEMENT AGREEMENT may be modified in writing by the parties. Modifications are at the sole discretion of the Attorney General;
- N. 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;
- O. This SETTLEMENT AGREEMENT supersedes any and all prior agreements between the Parties;
- P. This SETTLEMENT AGREEMENT is a limit, restriction, or probationary condition on FOE #4086's charitable bingo license; and
- Q. 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.

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 #4086

_____ Date _____

By: _____ (Print Name)

Its: _____ (Organizational Title)

_____ Date _____

By: _____ (Print Name)

Its: _____ (Organizational Title)

OHIO ATTORNEY GENERAL DAVE YOST

By: _____ Date _____
Daniel W. Fausey
Section Chief, Charitable Law Section