



DAVE YOST

OHIO ATTORNEY GENERAL

Charitable Law Section
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SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT is made by and between Canton Post Number Forty Four American Legion (“AL #44”), located at 1633 Cleveland Ave. NW, Canton, OH 44703 and the Attorney General of Ohio (“Attorney General”), for the purpose of resolving issues regarding AL #44’s charitable bingo operations. Together, the Attorney General and AL #44 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. AL #44 is a 501(c)(19) tax exempt organization with the Internal Revenue Service (“IRS”). AL #44 is registered with the Attorney General as required under ORC Sections 1716 and 109;
6. AL #44 was first issued bingo license no. 0028-27 in 1987;
7. On or about January 11, 2022, AL #44 filed a 2022 bingo license application. It amended the application on January 12 and January 26, 2022. The Office issued AL #44’s 2022 Temporary Charitable Bingo License on January 27, 2022;

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8. A compliance inspection conducted by the Ohio Attorney General's Office at 1633 Cleveland Ave. NW, Canton, OH 44703 identified electronic gaming devices that are illegal schemes of chance.

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

- A. AL #44 shall cease operating its schemes of chance immediately and forever, and shall take all reasonable steps to have the schemes of chance permanently removed from 1633 Cleveland Ave. NW, Canton, OH 44703.
- B. Until the schemes of chance are removed permanently, AL #44 shall temporarily move the machines to a room or location within 1633 Cleveland Ave. NW, Canton, OH 44703 that is not accessible to or typically utilized by patrons of AL #44.
- C. AL #44 agrees to submit biweekly reports providing updates on the status of the illegal schemes of chance until they are removed. These updates must be submitted by email to CharitableBingo@OhioAGO.gov. AL #44 shall provide a point of contact for the Attorney General;
- D. AL #44 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 AL #44 has fully complied with this SETTLEMENT AGREEMENT. Should the Attorney General determine that AL #44 has failed to comply with this SETTLEMENT AGREEMENT, the fully civil penalty amount shall be payable upon demand;
- E. If AL #44 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, AL #44 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;
- F. AL #44 agrees that all money used to fulfill the terms of this SETTLEMENT AGREEMENT shall come exclusively from AL #44's general operating account;
- G. AL #44 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 AL #44's charitable gaming operations;

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- H. AL #44 agrees to comply with the requirements of ORC 2915 *et seq.*, and any Ohio Administrative Code rules adopted thereunder;
- I. AL #44 agrees to comply with the requirements of ORC 1716 *et seq.* (the Ohio Charitable Organizations Act), and any Ohio Administrative Code rules adopted thereunder;
- J. AL #44 agrees to comply with the requirements of ORC 109.23-109.33 (the Charitable Trust Act), and any Ohio Administrative Code rules adopted thereunder;
- K. The Attorney General will not consider the facts giving rise to this SETTLEMENT AGREEMENT when issuing charitable bingo licenses to AL #44 in the future unless AL #44 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 AL #44 and may move to revoke, suspend, deny, place limitations or probationary terms on AL #44's Charitable Bingo License or application based on those facts.
- L. AL #44 agrees that any evidence of a violation of this SETTLEMENT AGREEMENT shall be *prima facie* evidence of AL #44'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;
- M. 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 AL #44 will discharge the Attorney General from any obligations under the terms of this SETTLEMENT AGREEMENT, but will not discharge AL #44 from any obligation it has under this SETTLEMENT AGREEMENT;
- N. By signing this SETTLEMENT AGREEMENT, the Attorney General is not waiving any rights he has to conduct further investigations of AL #44 and to initiate an action against AL #44 for further violations of ORC 2915 *et seq.*, ORC 1716 *et seq.*, ORC 109.23-33, or any Ohio Administrative Code rules adopted thereunder;
- O. This SETTLEMENT AGREEMENT may be modified in writing by the parties. Modifications are at the sole discretion of the Attorney General;
- P. 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;
- Q. This SETTLEMENT AGREEMENT supersedes any and all prior agreements between the Parties;
- R. This SETTLEMENT AGREEMENT is a limit, restriction, or probationary condition on AL #44's charitable bingo license; and

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S. 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:

AL #44
 _____ Date 19 APRIL 2022

By: RAYMOND J. DEVER (Print Name)

Its: COMMANDER (Organizational Title)

 _____ Date 4-19-22

By: Randall L. CANTRELL (Print Name)

Its: 1st Vice Commander (Organizational Title)

OHIO ATTORNEY GENERAL DAVE YOST

By:  _____ Date 05/09/22
Daniel W. Fausey
Section Chief, Charitable Law Section