



DAVE YOST
OHIO ATTORNEY GENERAL

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June 24, 2022

The First Heavy Metal Church of Christ
c/o Michael Brian Smith, Statutory Agent
818 W. Martindale Rd.
Englewood, OH 45322

**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 First Heavy Metal Church of Christ's bingo license application. 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, 25th Floor
Columbus, Ohio 43215
(614) 466-3181

Enclosures

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Charitable Law Section
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**OHIO ATTORNEY GENERAL
CHARITABLE LAW SECTION**

June 24, 2022

IN THE MATTER OF:

The First Heavy Metal Church of Christ
c/o Michael Brian Smith, Statutory Agent
818 W. Martindale Rd.
Englewood, OH 45322

EIN: 35-2424783

Certified Mail No.:

NOTICE OF INTENT TO REJECT 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 reject The First Heavy Metal Church of Christ’s (the “Church”) 2022 Charitable Bingo License application. 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.

The Church is a 501(c)(3) tax-exempt charitable organization. The Church first applied for a Type III charitable bingo license on February 1, 2022. It amended the application on February 23 and February 24, 2022. Upon information and belief, Amanda Marconett filed the application and each amendment as an authorized representative of the Church.

Through subsequent investigation, the Office learned that the Church is seeking a license to conduct bingo from Ms. Marconett’s personal residence via live streaming broadcasts. The Office’s position is that conducting bingo in this manner is not permitted under R.C. Chapter 2915.

Notice is hereby given that the Attorney General intends to reject the Church’s 2022 Charitable Bingo License application for the following reasons:

COUNT 1

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.” Relatedly, under R.C. 2915.091(A)(3), a licensee may not “Conduct instant bingo ... at any premises not specified on the organization’s license....”

Upon information and belief, the Church’s principal place of business is located within Montgomery County, Ohio. However, the manner in which the Church intends to conduct bingo is such that the players may not be located within Montgomery County. Ms. Marconett intends to

collect payment for instant bingo pull tabs via mobile payment service, then open the pull tabs on behalf of the player while broadcasting from her Montgomery County home via livestreaming on the internet.

This model of conducting bingo allows persons outside Montgomery County to play bingo. Alternatively, because purchasers of the bingo tickets will not physically be present at the location listed on the application (i.e., Ms. Marconett's home), the Church would be conducting bingo at premises not specified on its license.

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

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 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 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 Reject 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
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