



DAVE YOST

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Charitable Law Section
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April 15, 2022

Fraternal Order of Eagles Aerie No. 2223
6979 Sunset Strip
North Canton, OH 44720

**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 Fraternal Order of Eagles Aerie No. 2223'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**. Please contact AAG Megan Nelson directly upon receiving this letter.

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
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(614) 466-3181

Enclosures

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**OHIO ATTORNEY GENERAL
CHARITABLE LAW SECTION**

April 15, 2022

IN THE MATTER OF:

Fraternal Order of Eagles Aerie No. 2223
6979 Sunset Strip
North Canton, OH 44720

EIN: 34-0232980
Bingo License No.: 0235-32

**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 Fraternal Order of Eagles Aerie No. 2223’s (“FOE #2223”) 2022 Charitable Bingo License with the following limitations and restrictions:

- FOE #2223 will not be licensed to conduct electronic instant bingo unless and until the “no chance games” 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 #2223 was first issued bingo license no. 0235-32 in 2005. On or about January 19, 2022, FOE #2223 filed a 2022 bingo license application. It amended the application on March 12, 2022. The Office issued FOE #2223’s 2022 Temporary Charitable Bingo License March 11, 2022.

On or about March 3, 2022 the Office conducted an electronic instant bingo pre-licensing inspection of FOE #2223. During that inspection, and through subsequent investigation, the Office identified “no chance games.” The Office’s position is that “no chance games” are illegal schemes of chance.

Notice is hereby given that the Attorney General intends to issue FOE #2223’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).

Gambling machines with a “pre-reveal” or “no chance” function are slot machines under Ohio law. *Mayle Bingo Co., LLC v. Ohio Dep’t of Pub. Safety*, 2020-Ohio-1087, 152 N.E.3d 1237 (10th Dist.); 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_June20_18.pdf. Therefore, FOE #2223’s “no chance games” are slot machines and illegal schemes of chance.

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.* “No chance games” are electronic devices that will reveal the result of a next game only if the player pays some amount of money, and players hope to win cash prizes in return. Therefore, “no chance games” are also schemes of chances under this definition.

The attorney general intends to restrict FOE #2223’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 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 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



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