

TRANSCRIPT OF PROCEEDINGS

BEFORE THE

TEXAS LOTTERY COMMISSION

AUSTIN, TEXAS

BINGO ADVISORY COMMITTEE MEETING

OCTOBER 11, 2023

10:00 a.m.

AT

STEPHEN F. AUSTIN STATE OFFICE BUILDING
1700 N. Congress Avenue, Room 170
Austin, Texas 78701

Proceedings reported by electronic sound recording;
transcript prepared by Verbatim Reporting & Transcription
LLC.

1 APPEARANCES

2 COMMITTEE MEMBERS:

3 William T. Smith III (Trace), Chairman

4 Emile Bourgoyne

5 Jason Pohl

6 Michael Anastasio

7 Melodye Green

8 Stacie Johnston

9 Corey Harris

10 COMMISSION STAFF:

11 LaDonna Castañuela, Director of Charitable Bingo Operations

12 Tyler Vance, Assistant General Counsel

13 Bob Biard, General Counsel

14 Elizabeth Godfrey-Weidig, Public Information Coordinator

15 PUBLIC:

16 Steve Bresnen, Bingo Interest Group

17 Andrew McConnell, Texas Sunset Advisory Commission

18 Kimberly L. Kiplin, All Saints Texas

19 Stephen Fenoglio, Texas Charity Advocates

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P R O C E E D I N G S

WEDNESDAY, OCTOBER 11, 2023 (10:00 a.m.)

AGENDA ITEM 1

CHAIRMAN SMITH: -- (recording begins) -- and for the state of Texas. If you do not know the Texas pledge, it is written on the front of your program. Michael, will you lead us, please?

MR. ANASTASIO: Please join me in the Pledge of Allegiance.

(Pledge recited)

MR. ANASTASIO: Face the Texas flag.

(Pledge recited)

AGENDA ITEM 2

CHAIRMAN SMITH: All right. Moving on to Item Number 2, Roll call.

Michael.

MR. ANASTASIO: Here.

CHAIRMAN SMITH: Stacie.

MS. JOHNSTON: Here.

CHAIRMAN SMITH: Melodye.

MS. GREEN: Here.

CHAIRMAN SMITH: Jason?

MR. POHL: Here.

CHAIRMAN SMITH: Tommy. Tommy, are you on?

MR. POHL: Tommy was not able to make the

1 meeting.

2 CHAIRMAN SMITH: Okay. Thank you. Corey?

3 (No audible response)

4 CHAIRMAN SMITH: Emile?

5 MR. BOURGOYNE: I am here.

6 CHAIRMAN SMITH: Glad to have you with us,
7 sir. And Veronica had something come up this morning, she
8 will not be attending. We do have five people in attendance,
9 six people in attendance so we will have a quorum today.

10 AGENDA ITEM 3

11 CHAIRMAN SMITH: Moving on to Item Number 3,
12 Meeting minutes from August 16th, 2023 meeting. Any public
13 comment on that? I'll make a motion that we approve the
14 meeting minutes published online.

15 MR. BOURGOYNE: So moved.

16 CHAIRMAN SMITH: All in favor?

17 (Chorus of "ayes")

18 CHAIRMAN SMITH: Any opposed? Meeting minutes
19 are approved.

20 AGENDA ITEM 4

21 CHAIRMAN SMITH: Item Number 4. We have a
22 presentation. We're going to have a refresher on the Open
23 Meetings Act and the Public Information Act. Bob Biard is
24 going to educate us a little bit on this, just as a
25 refresher.

1 MR. BIARD: Have me up there? Morning,
2 everyone. I'm Bob Biard, General Counsel. It's been a
3 process, I've seen some of you in person, but it's good to be
4 here. I think when the BAC was reconstituted in 2018, we had
5 an opening session where I think we went over these issues.
6 But it's been, gosh, five years now. So Trace thought, had a
7 good idea that maybe we should have a little refresher on
8 these issues and how they apply to this committee.

9 I'm going to talk a little bit about the Open
10 Meetings Act and then I'm going to turn it over to our
11 Special Counsel and our Public Information Coordinator, it's
12 Deanne Rienstra and Liz Godfrey-Weidig. And they will talk
13 to you about the Public Information Act, because my
14 presentation is going to be pretty short and I think it'll be
15 a little obvious as to why when I get started here. Let's
16 see, bear with me just a moment.

17 So, the Open Meetings Act was first adopted
18 back in the 1970s after some incidents that happened in state
19 government that some major decisions concerning issue --
20 issuing a certificate for a bank note that occurred outside
21 of the public process. And if -- y'all may have heard of the
22 Sharpstown Scandal, that was what initiated a whole series of
23 open government laws, including the Open Meetings Act and the
24 Public Information Act. And put very succinctly, the Open
25 Meetings Act requires all meetings of a governmental body to

1 be open to the public. And the policy requiring open
2 meetings to be open is so that the public has the opportunity
3 to be present and see how decisions made by the government
4 are being made. And the Open Meetings Act applies to a
5 governmental body. And a governmental body is one that --
6 that controls or has supervisory authority over public
7 business or policy. And basically that means a body that has
8 final decision-making authority. Bingo Advisory Committee is
9 not a governmental body under the Open Meetings Act because
10 it does not control or supervise public business or policy.
11 The BAC is purely advisory, it exists to advise the
12 Commission on charitable bingo matters.

13 The Lottery Commission is the governmental
14 body. Now some advisory committees are subject to the Open
15 Meetings Act by statute, but this is not one of them. And
16 the BAC is provided for in the Bingo Enabling Act. And
17 there's also a separate statute that talks about, in the
18 Texas laws, that talks about advisory committees generally.
19 And so but what this committee does is consistent with that
20 statute and the Commission's rule, which they have adopted
21 that governs your activities.

22 Now there's one caveat about open meetings and
23 advisory committees that I do want you to be aware of, and
24 that is what is referred to in several attorney general
25 opinions as rubber stamping. There are -- there have been

1 occasions where a board simply rubber stamps whatever comes
2 before them from an advisory committee without -- in full,
3 without any discussion or independent review. And we try
4 hard to avoid this. And I think you can see that this is one
5 of the reasons why we have a designated Bingo Commissioner,
6 Cindy Fields, involved -- heavily involved with the BAC, as
7 well as the Bingo Director, LaDonna Castañuela, Tyler Vance,
8 Assistant General Counsel who's on my staff, who works
9 closely with you on really all the items that come before you
10 and are available to you as you need assistance. They're
11 here to vet your ideas and to get a staff perspective on the
12 feasibility of potential rule changes and other action items
13 for the Commission and the Bingo Division.

14 As you know, the Lottery Commission board
15 looks to the Bingo Commissioner and to the staff before
16 acting on recommendations from the BAC. So we have a
17 substantial involvement of the Lottery Commission staff and
18 the Bingo Commissioner in your deliberations. To my
19 knowledge, there's never been an issue regarding the
20 Commission's independent judgment when making bingo related
21 decisions, but we all need to be mindful that the BAC is a
22 purely advisory committee, and that the Commission does not
23 simply rubber stamp BAC recommendations.

24 Now, that's ultimately going to be a fact
25 issue of what the governing board, the Lottery Commission,

1 does with your recommendations. But I don't anticipate this
2 to be an issue with the BAC and the Lottery Commission, but
3 it's something that I think we all need to be mindful of.

4 Now, even though the BAC is not a governmental body
5 subject to the Open Meetings Act, the Commission has adopted
6 a rule governing the BAC and it borrows some concepts from
7 the Open Meetings Act. Under the rule that the Commission
8 has adopted, the BAC is required to post notice of these
9 meetings 10 days in advance. And that's longer than the Open
10 Meetings Act requires for governmental bodies; that's seven
11 full days. But your notices just go on the agency's website,
12 whereas, a governmental body must post their notice in the
13 Texas Register for the public.

14 With people who are interested in the BAC can
15 look on the Commission's website and see the agendas for the
16 next Commission meeting. And, you know, I think as a
17 practical matter, the agendas help the committee members and
18 the staff and the folks out here who advise the BAC, you
19 know, independently, and help them prepare for the next
20 meeting so these meetings are productive.

21 The BAC also must keep minutes of its meetings
22 and Commission staff assists with that through a service that
23 transcribes all these discussions. And after these meetings,
24 we go through the transcript and we look at it and make
25 corrections as necessary. And all of those transcripts are

1 available, they're posted on the Commission's website.

2 Now, the fact that the BAC is not a
3 governmental body means that you all can get together outside
4 of these meetings and talk about BAC matters, talk about
5 bingo matters, without concern. In any number. Two of you
6 can talk, you know, this is a four or five of you, a quorum
7 if you can get together and talk and it's not -- it's not a
8 legal problem, it's not an open meetings problem. And
9 because you're not a governmental body, we can also have this
10 sort of a -- an easier way of bringing you all together by
11 having some of you here, some of you maybe joining by Teams.
12 I know occasionally you've had people call in. For a
13 governmental body, there's a very strict requirement,
14 technical requirements that have to be met for a governmental
15 body like the Lottery Commission to do that. But
16 fortunately, you are not subject to those restrictions, so
17 it's made it a lot easier for I think, for this BAC to meet,
18 especially over the last, you know, three, four years once
19 the pandemic got started. So that didn't seem to impede your
20 deliberations at all. So that was good.

21 That's really all I have to say about the Open
22 Meetings Act and if y'all have any questions, I'll be happy
23 to try to field them. And if not, I will turn it over to
24 Deanne and Liz to talk about the Public Information Act.

25 CHAIRMAN SMITH: Anyone have any questions?

1 No? We certainly appreciate that. Thank you very much.
2 Just before y'all start your presentation really quick. When
3 we're -- we want to say thank you to the Commissioners and to
4 -- especially to Commissioner Fields for taking the time out
5 of their busy schedules to listen to us and to the staff for
6 being here. I've said this before, and I'll say it again,
7 the atmosphere here is 100,000 times better than it has been
8 in prior years, and we're certainly grateful for that and it
9 does not go unnoticed. So y'all definitely deserve a pat on
10 the back for all of that. We appreciate what you do.

11 MR. BIARD: Thank you very much.

12 MS. CASTAÑUELA: I just want to let you know
13 that Corey has joined us. Corey Harris is on.

14 CHAIRMAN SMITH: Okay. Corey's on --

15 MS. CASTAÑUELA: Yes.

16 CHAIRMAN SMITH: Okay.

17 MR. BIARD: Thank you.

18 CHAIRMAN SMITH: How are you, ma'am?

19 MS. GODFREY-WEIDIG: Good morning.

20 CHAIRMAN SMITH: Good morning.

21 MS. GODFREY-WEIDIG: My name is Elizabeth
22 Godfrey-Weidig, I'm the public information coordinator for
23 the Texas Lottery. Thank you. Gotta look good on camera.

24 I have been in the public information field
25 for almost 16 years, just shy of six years with the Lottery

1 Commission. I work in Legal with Deanne and our folks there.
2 And I'm just going to quickly go over our Texas Public
3 Information Act, the -- in the same vein as the Open Meetings
4 Act, so Sharpstown Scandal 1973. So let's talk about public
5 information.

6 Okay. So the Public Information Act is also
7 known as the Open Records Act. It gives the public the right
8 to request access to government information. There is a
9 presumption that the information we gather is -- is and
10 belongs to the people that govern us. The Government Code is
11 Chapter 552, and it lays out all of our procedures and
12 exceptions and the law part of what we go through. So what
13 is public information? Public information is information
14 that is collected, assembled, maintained under the law or
15 ordinance in connection with the transaction of official
16 business of governmental bodies. So our day-to-day
17 information that we use to do our business is something
18 that's subject to the Public Information Act, which is where
19 an individual can come in and request to see that
20 information.

21 This is anything and everything. So examples
22 of are things like electronic documents, emails, microfilm,
23 your handwritten notes in the course of business, sound
24 recordings, text messages, the recording of this meeting is
25 subject to the Act.

1 So who's subject? It's going to be very
2 similar to the Open Meetings Act, where it is an entity that
3 is receiving public funds to do business; school districts,
4 cities, you know, the counties, your -- you know, us. So
5 those folks are subject to the Act.

6 So there are only really two rules about
7 public information, is the number one, it has to be in
8 writing. The informa -- you know, get a request over the
9 phone, can you submit that to us in writing. It keeps
10 everybody understand what we're doing, what they're
11 requesting, there's no confusion. It's a protection for the
12 citizen or the public and it's a protection for us, so we
13 know exactly what they're looking for.

14 The second is the request must ask for
15 information that is already in existence. So we don't create
16 information. Let's say individual wants something, you know,
17 I want the meeting agenda from two weeks from now. Well,
18 that doesn't exist yet, so that the -- we're not going to
19 have anything responsive for that request. And then there's
20 a customer service base where this agenda will be available
21 in two weeks. Please re-request. You can go ahead.

22 So when we receive a public information
23 request, we're obligated to relate the request to the
24 information that we hold. So, I'm working with the public
25 every day. They're not going to use the same language that

1 we use. So I try to assist them with interpreting. You want
2 a winners list; okay. Well, you can find a winners list
3 here. So we just have to relate to what we have and we do
4 have the ability to go back to them and say, can you clarify?
5 We must act under good faith to relate any questions we
6 receive because we don't answer questions through the public
7 information request process. And if I get a question, I will
8 send that over to our Customer Service Department.

9 We do not ask why they want the information,
10 what they're going to do with it. We are not allowed to ask.
11 It's none of our business. And again, we can ask to narrow
12 or clarify large, broad requests and occasionally we get
13 those.

14 So to continue, we can charge reasonable fees
15 for time and copies. We have to treat all requesters
16 equally, which means I don't put a media request in front of
17 another request. I don't put his request in front of your,
18 it's in order in which they're received.

19 We have to release the information promptly.
20 So, promptly is promptly, and if it's sitting on your desk
21 and it takes 10 days, like you're going to get a phone call
22 from me, can I have that please? So, we must receive, we
23 must reply promptly, unless there's an exception to the
24 information that they've requested under the law.

25 So, promptly -- release information responsive

1 to request within a reasonable amount of time. The five
2 business days is an internal deadline. It's the amount of
3 time that our staff has to collect the documents and get them
4 back to Legal for review. The 10th business day is a
5 deadline within the Public Information Act that we have to
6 respond back to the requester by, either here's your
7 information, we need additional time, here's your cost
8 estimate, we need the clarification. We also must request a
9 decision from the Office of the Attorney General within -- on
10 that 10th business day and then the 15th business day we
11 submit the documents and arguments to the Office of the
12 Attorney General for a decision on that, if the information
13 that's been requested can be released or not based on the
14 exceptions.

15 More deadlines. Y'all know deadlines, we
16 don't count holidays, skeleton crew days, bad weather days,
17 anywhere where our offices are closed. That's pretty typical
18 for us, which is nice.

19 Exceptions, you know, if we receive a request
20 after hours, it rolls into the next business day. If we
21 receive a request during the weekend, it rolls to the next
22 business day, et cetera.

23 So, we do charge for our time under the Public
24 Information Act. We recently -- well recently we adopted the
25 section which allows us to establish the 36 hours of staff

1 time per requester per fiscal year. It's been very
2 interesting to transition to that, it's going well. And then
3 all the fees, the copies, the staff time, the programming,
4 the different kind, like if we needed to run a CD, is all
5 laid out by the Office of the Attorney General in the Public
6 Information Handbook, so 10 cents a page, \$15 an hour for
7 staff time, et cetera.

8 If we're pursuing a cost estimate though, we
9 tell staff, please don't gather documents. You can't charge
10 for a cost estimate if you gather your documents first. So,
11 we're always in communication with our staff, in
12 communication with our requesters, and we're just -- we keep
13 the ball rolling. So, violations for the Public Information
14 Act, there are criminal and civil penalties. The willful
15 destruction, mutilation, removal without permission or
16 alteration of a public record is punishable by a confinement
17 in a county jail, six months fine, \$100,000 or both.

18 I don't want to go to jail, so, I will come find those
19 documents. And of course, that ties into records retention,
20 so we are -- you know, we make sure we follow our retention
21 guidelines, make sure we're not removing documents or
22 manipulating. I've never seen in my time, very short time in
23 open records, anybody see the penalties for a violation.

24 Agency staff. So, you have -- agency staff
25 are those individuals, we have a liaison in each division and

1 they receive the requests from me. They will go out and
2 gather the documents from agency staff. The liaison then
3 take those documents, provide them back to me, along with the
4 36 hour staff time, 15 minutes, five minutes, one minute.
5 Public Information Coordinator; I'm the single point of
6 contact for staff and the public. I'm just, you know, moving
7 stuff around all the time, just getting that stuff out.

8 Our TLC attorney will review documents that we
9 believe have an exception that applies, something like an
10 anonymous winner, items like that, we will write to the
11 attorney general. I will send that information to Deanne and
12 she will brief the AG's Office. And then the Attorney
13 General's Office maintains uniformity of application,
14 operation and interpretation of the Act. So, they are in
15 charge of this law.

16 So, when we receive a request. So, again, two
17 ways: by mail or in person. So, they can come to our office,
18 drop it off, it has to be in writing, and for information
19 that exists. I have in the past, like gone downstairs into
20 our lobby and chatted with these individuals and just take my
21 pad of paper with me and they just write it down. Great.

22 We ask that the date stamps are happening
23 because that starts our 10 day business day, deadlines, right
24 there. We've asked staff to, you know, I need to get it
25 immediately, as soon as possible, because it doesn't matter

1 if it's sitting on your desk for three days. That's three
2 business days that we've lost because I can't -- I don't have
3 it to process.

4 We've gone from -- the last time I spoke to
5 you, we've gone from an internal program where we were nearly
6 a hundred percent paper to the GovQA platform, which has been
7 amazing. And it's really streamlined us, made communication
8 very easy, the deadlines are all integrated, so we do have
9 the portal for individuals to go to through our website and
10 they just create an account. It gives them step by step what
11 documents you would like, date ranges, do you, you know,
12 agree to all exceptions, et cetera. We ask don't forward
13 request in your email. If you get somebody who sends you an
14 email and says, I want Elizabeth's personnel file, I ask that
15 you direct them back to our website, to this link, to this
16 portal, and it will come to me.

17 Also, if they -- if questions, phone number.
18 I will talk to any, you know, help those individuals out
19 getting that process done.

20 So, requests we've received by calendar year.
21 As you can see, you know, we've received less requests
22 because of the GovQA system. So, prior it was just an email.
23 And now we've really streamlined ourselves where we're doing,
24 you know, about 50, 75 requests a month.

25 So, just to wrap it up, the information or the

1 request, excuse me, has to be for information in writing.
2 Requests must be for data already in existence. Remember
3 that information is stored in many different forms. We have
4 our legal deadlines to remember and, you know, coordinate
5 with the division liaison and myself. And if you have any
6 questions, there's my information. Deanne and Tarah Lossman,
7 our legal assistant, she also is involved, so please reach
8 out with any questions. I'm happy to chat.

9 Y'all have any questions now?

10 MS. GREEN: Yes, I do. How long do you keep
11 information?

12 MS. GODFREY-WEIDIG: So, for open records?

13 MS. GREEN: Right.

14 MS. GODFREY-WEIDIG: So, open records
15 retention period is two years after the date of the close of
16 the request.

17 MS. GREEN: No. How long do you keep the
18 informa -- say I have a request for information that may be
19 10 years old.

20 MS. GODFREY-WEIDIG: Okay.

21 MS. GREEN: Do you have that information?

22 MS. GODFREY-WEIDIG: So, it's really going to
23 depend on the information's retention period. And that is,
24 we have that retention for every kind of document, it's with
25 the Texas State Library. And we rely on the staff to know

1 this, you know, this year is ready for retention. They have,
2 you know, policy and procedures that way.

3 So, if you write me a request that I don't
4 have those documents and I think that have met the retention,
5 I will tell you we don't have those documents, those items
6 have met the retention and have been destroyed per our
7 process.

8 CHAIRMAN SMITH: Is there a typical ballpark
9 timeframe? Is it -- I know --

10 MS. GODFREY-WEIDIG: For retention?

11 CHAIRMAN SMITH: Yes. I think four years is
12 the retention for bingo operators to retain their records,
13 isn't that correct? Four years?

14 MR. VANCE: Yeah. So, the bingo rule requires
15 four years for all records. So, what she's referring to is
16 the records retention schedule of the agency. All state
17 agencies, every agency has their own one and there are dozens
18 of categories of different kinds of documents, and they can
19 all have different retention. So, like general
20 correspondence emails we can delete after 30 days. There are
21 some things that we have to keep forever, literally forever.
22 Other things, four years, two years, you really have to look
23 at the schedule to figure out what particular kind of
24 document you're looking at and what the retention schedule
25 for the agency is.

1 CHAIRMAN SMITH: Okay.

2 MS. GODFREY-WEIDIG: That document's also
3 publicly available.

4 CHAIRMAN SMITH: Gotcha.

5 MS. GODFREY-WEIDIG: Any additional? Thank
6 you for your time today. Appreciate it.

7 MS. CASTAÑUELA: Ma'am, it looked like one of
8 our members, Corey, has got a question.

9 MS. GODFREY-WEIDIG: Yes.

10 MS. CASTAÑUELA: Do you have a question?

11 MR. HARRIS: I do have real quick one. Yes.
12 Thank you, Mr. Chairman, and thank you so much for your
13 presentation, this was very informative. And I'm just -- and
14 this is purely out of curiosity, but what's the most
15 frequently requested piece of information? Is it minutes?
16 Is it finances? I mean, and this is just curiosity speaking.

17 MS. GODFREY-WEIDIG: Sure.

18 MR. HARRIS: In terms of people most want to
19 look at finances or minutes? I mean, what?

20 MS. GODFREY-WEIDIG: I would say by far the
21 most -- largest topic is going to be scratch ticket
22 information.

23 MR. HARRIS: Okay. Just curious.

24 MS. GODFREY-WEIDIG: Okay. Thank you.

25 CHAIRMAN SMITH: Any other questions? Thank

1 you very much for your presentation. We greatly appreciate
2 that.

3 MR. BIARD: Hi, I just thought I'd add just a
4 little bit, just sort of from a practical perspective on the
5 Public Information Act. You know, it's interesting. Before
6 the pandemic, we received anywhere from probably 1200 to 1400
7 requests a year. You saw the figures down there were about
8 60, 50-60 percent of that. It's kind of interesting, but you
9 know, that's -- for an agency our size, that was a lot of
10 information requests. I'm not sure how much of that can be
11 attributed to our new online request system or to the
12 pandemic, but, you know, still getting 700 a year is quite a
13 few.

14 We do not get many requests for information
15 about the BAC. And as an advisory committee, you do not have
16 detailed record keeping requirements. As far as your role on
17 this committee is concerned, you know, we have the agendas,
18 the notice of the public meetings. You have the business
19 plan, you know that it has to be approved every August for
20 the following year. And you have the report, the annual
21 report, that also gets submitted every August to the
22 Commissioners. But you -- the records you keep, the things
23 you write down, whether it's on a notepad or in an email or
24 whatever concerning this committee, and your work on this
25 committee, is all information that is subject to the Public

1 Information Act.

2 Now, if you just use that, those records,
3 those writings, as notes, basically just sort of transient,
4 you know, information that you use temporarily and then
5 you're done with it, you don't have any obligation to keep
6 it. You can throw it away. You don't, there's no
7 requirement for you to maintain your personal --

8 CHAIRMAN SMITH: Okay.

9 MR. BIARD: -- documents that you develop
10 while you're on the BAC. But if we ever got a request for
11 those, we would reach out to you and ask, what do you have?
12 And you can't then decide you're going to destroy them. If
13 you're going to destroy them, I mean, it's fine. But once
14 you get a request, it kind of freezes all that and whatever's
15 in existence at the time of the request, that's information
16 that you'll need to turn over. And Deanne and Liz will look
17 at that and determine whether any of that information is
18 subject to an exception.

19 There's a very long list of exceptions that --
20 that -- to providing the information; it's confidential by --
21 either by law or by statute. So, I just thought I wanted you
22 to feel comfortable that you have the freedom to either keep
23 notes or not keep notes. And you don't have an obligation to
24 keep them, but if you do keep them and someone asked for
25 them, we have to turn them over. Thank you.

1 CHAIRMAN SMITH: Thanks, Bob. Anyone have any
2 more questions or conversation about that presentation? We
3 certainly appreciate that. We -- I think that's good that we
4 review that every few years just to keep everybody in the
5 know, since we typically have members come and go over the
6 course of five years. So thank y'all very much. We
7 appreciate that.

8 AGENDA ITEM 5

9 CHAIRMAN SMITH: All right. Moving on to Item
10 Number 5. Before we do that, if I might just throw this in
11 there. Under new business we're going to be talking about
12 the Sunset stuff that we have coming up with the staff not
13 too in depth, but we did want to recognize that there are
14 members from the Sunset Committee here and we get
15 (indiscernible) new business, so just a little premonition
16 there.

17 CHAIRMAN SMITH: Item Number 5, Presale of
18 bingo events. This is just an item for discussion. I know
19 at the last BAC meeting, we talked about people pre-selling
20 event tickets for larger events, you know, in accordance with
21 Senate Bill 643 that got passed last session. Does anybody,
22 Melodye, do you have anything more on that, that you want to
23 go over or ask?

24 MS. GREEN: I just want to distinguish that
25 between a gift certificate and a sale for a particular event.

1 Because a gift certificate has different parameters. You
2 have to keep so much information. And I noticed on the
3 presale here, where did the Commission land on pre-selling
4 products before a bingo session?

5 You can -- I've heard you can presale, you
6 cannot redeem.

7 MR. VANCE: So here's the issue we run into
8 with presales. So 2001.419(e) says that bingo cards, pull-
9 tab tickets and the use of card-minding devices for a bingo
10 occasion may be sold at the licensed premise at any time,
11 beginning one hour before the bingo occasion and ending at
12 the conclusion of the occasion, except that if you have two
13 consecutive occasions, you can of course sell product for the
14 second one during the first.

15 So, that restricts the selling of bingo
16 products to one hour before the occasion for which they're
17 going to be used. So, a presale -- I was about to call it a
18 door fee, but let's call it a presale. A presale is either
19 an illegal sale of bingo product or it's a door fee, which is
20 not a bingo product, it's just an admission, you know, like
21 it's like a t-shirt or a hot dog or anything else that you
22 guys might sell in a hall.

23 So, I think you run into the problem there is,
24 it's a pre -- a door fee can't be treated as bingo, as
25 proceeds, as bingo proceeds, and a presell bingo ticket is

1 illegal. And, you know, I was considering this, there's,
2 it's interesting that the gift certificate allowance is in
3 the law. The law in 2003 was amended to allow gift
4 certificate sales. And I wasn't there at the time,
5 obviously, but I can only think that part of the reason is
6 that there is this gap in which you can't -- you -- before
7 that law was in place, I don't think you could have sold gift
8 certificates because you're arguably selling bingo product
9 outside of an occasion. So, I find it's interesting that
10 that law was included in 2003 to expressly allow this kind of
11 selling of a bingo product outside of an occasion.

12 And so I think the gift certificate law, and
13 then we do have a rule, really completely addresses this
14 situation. I know -- I understand it's a hassle because the
15 rule has all these requirements about issuing a gift
16 certificate, but gift certificates are allowed under the law,
17 and we have rules that are in place, and I think they've
18 perfectly addressed this situation.

19 If you have, you know, LaDonna and I were
20 talking, if you have a big Christmas event you want to have
21 on Christmas Day, sell a gift certificate and it could expire
22 on Christmas Day and just tell everyone, you know, this, you
23 know, the -- that this is redeemable on Christmas Day. The
24 only questionable aspect is it's also probably redeemable
25 anytime before that. So, the rule isn't -- doesn't clearly

1 allow a gift certificate to be restricted to a single-day
2 event. It has to have an expiration date.

3 So, you have to, when you issue the gift
4 certificate, let's say they buy a ticket, a gift certificate
5 today for the Christmas event, and it'll say it expires on
6 December 25th. Well, they might decide in December that they
7 can't make it, so they're going to come in on December 10th
8 and redeem it. And that appears to be allowed. But I think
9 we can address that through rulemaking, that there's enough
10 flexibility in the gift certificate area that we can allow
11 gift certificates that are only valid for one day.

12 And I think that just -- it completely
13 addresses this presale issue, because it gives you the money,
14 it allows you to foresee how many customers you're going to
15 have before you have this giant event, it addresses what
16 happens to the money, it addresses how it ends up in your
17 bingo bank account, or if it's never redeemed, it goes to the
18 charities directly.

19 So, I do -- again, I realize it's not as
20 convenient as just selling a ticket because the gift
21 certificate rule does have a lot of requirements. But I
22 think what is being called a presale is perfectly legal as
23 long as it's done through the gift certificate requirements.

24 CHAIRMAN SMITH: So, I had a phone call a few
25 weeks back asking me if there was an operator that asked can

1 they, instead of offering a cash prize on a pull-tab, they
2 offer a non-cash merchandise prize, which is a ticket to a
3 further event. And their question was, what do they do with
4 that money? Do they hold onto it in the safe when you're
5 talking about a hundred tickets at a \$100? And not to put
6 you on the spot, this may take some time to think about and
7 process, I understand that. But I think in general terms if
8 what they're talking about is selling a pull-tab and the \$100
9 winner on the pull-tab event instead of receiving cash, they
10 would receive a ticket for a future event, and then would
11 that operator put that money in the bingo bank account or
12 would they --

13 MR. VANCE: So a --

14 CHAIRMAN SMITH: You see where I'm going with
15 that?

16 MR. VANCE: Again, within the gift certificate
17 rule, a gift certificate may be awarded as a prize. So, if
18 you're treating your ticket to this big event as a gift
19 certificate, and it's properly issued as a gift certificate,
20 you may award that gift certificate as a prize.

21 The rule does address it. It says that a gift
22 certificate may not be awarded as a prize unless the value of
23 the certificate is paid for by the organization and recorded
24 as a prize on the daily schedule of prizes. So, you're going
25 to have to take that money out and even though you'd only

1 handed out the \$100 gift certificate, you'd have to take --
2 you'd have to list it as a hundred dollar prize on that
3 occasion.

4 CHAIRMAN SMITH: Sure.

5 MR. VANCE: But yes --

6 CHAIRMAN SMITH: If they list it on that
7 occasion as a hundred dollar prize, you've still got a
8 physical hundred dollar bill.

9 MR. VANCE: Well, but you wouldn't, because
10 you've just issued -- you've handed out the gift certificate,
11 but you have to mark it down as a hundred dollar prize. Like
12 in your accounting, it'll look like a hundred dollars went
13 out, even though a hundred dollars didn't. And then when the
14 gift certificate comes back to you, or it expires, if it
15 comes back to you, that hundred dollars, you can then, you
16 know, you put it in. Or I guess not because you never sold
17 it, right? I guess it'd be an interesting question if it
18 expired.

19 CHAIRMAN SMITH: Yeah, it's quite a conundrum
20 actually when you --

21 MR. VANCE: Yeah.

22 CHAIRMAN SMITH: But that's just something
23 that I've been hearing quite a bit and I think LaDonna and I
24 spoke about this the other day a little bit.

25 MR. VANCE: Yeah, this is kind of interesting

1 because the rule on the one side says it -- it can be awarded
2 as a prize, but then on the other it says each bingo
3 certificate shall be paid for by the customer in full at the
4 time it is issued by the organization. So we've got a
5 conflict there.

6 CHAIRMAN SMITH: Yes.

7 MR. VANCE: But then it's allowed to be
8 awarded as a door prize. It says you can award it as a door
9 prize if it's paid for, if it's paid for before it's awarded.
10 So, it's just that the organization is paying for it.

11 CHAIRMAN SMITH: Gotcha.

12 MR. VANCE: And maybe that's, you know, so we
13 could interpret (e) that says each bingo gift certificate
14 shall be paid for by the customer. I mean, in this case, the
15 organization's the customer, you're buying it so that you can
16 give it away.

17 But yeah, the rule does allow awarding these
18 as a prize, but it still has to -- it's got to look like a
19 gift certificate.

20 CHAIRMAN SMITH: Right.

21 MR. VANCE: It's got to meet all the other
22 requirements of the gift certificate.

23 CHAIRMAN SMITH: Excellent. Any more
24 questions?

25 AGENDA ITEM 6

1 CHAIRMAN SMITH: And moving on to Item Number
2 6, fun time. LaDonna, I think this is going to be your item,
3 the draft rules.

4 MS. CASTAÑUELA: Well, the draft rules were
5 circulated to the committee and the, you know, the rest of
6 the audience members that are usually here.

7 CHAIRMAN SMITH: The usual suspects.

8 MS. CASTAÑUELA: Tyler said that he did not
9 receive any comments. You and I have been talking; no
10 comments. I've talked to some other folks. So, I don't know
11 if anything has come up since then. It will be presented to
12 the Commission tomorrow. And then for publication in the
13 Texas Register. Of course, there'll be a 30-day comment
14 period. You know, another chance for written comments that
15 we'll address and hopefully have it up for adoption in
16 December.

17 CHAIRMAN SMITH: Any public (indiscernible).

18 MS. CASTAÑUELA: Also in -- I forget --

19 MR. VANCE: November 13th, I think.

20 MS. CASTAÑUELA: Thank you, Tyler. November
21 13th you think.

22 MR. BRESNEN: I'm Steve Bresnen. Thank you
23 for the opportunity to comment. We'll be supporting the
24 publication of the rules for comment tomorrow and at the
25 public hearing, the date of which is?

1 MR. VANCE: 13th, November 13th, 10:00 a.m.

2 MR. BRESNEN: November 13th.

3 MR. VANCE: In this room.

4 MR. BRESNEN: Okay. Thank you very much.

5 CHAIRMAN SMITH: Thank you. Any other comment
6 on the rules package? Just for commenting purposes, I did
7 read the rule package myself and didn't see anything either
8 that stood out, but we definitely have an opportunity coming
9 up to voice any concerns we have. Yes, Melodye?

10 MS. GREEN: I do have just one question, not
11 really concerned about the rules itself, but it says when you
12 are playing a temporary, you have to tell you that we're
13 going to play the temporary and it says you respond. How do
14 you respond to that?

15 MR. VANCE: So there's no requirement. We'll
16 respond to it and you need to keep that in your records, but
17 you're not required to display anything, because you could
18 notify us on a Saturday and --

19 MS. GREEN: Correct.

20 MR. VANCE: -- we can't necessarily get back
21 to you.

22 MS. GREEN: Okay.

23 MS. CASTAÑUELA: You're going to get a
24 confirmation from the system.

25 MS. GREEN: But we do not have to wait for the

1 confirmation before we play? Okay.

2 MS. CASTAÑUELA: It should be automatic --

3 MS. GREEN: That's a question because --

4 MS. CASTAÑUELA: -- isn't it?

5 MS. GREEN: Yeah.

6 MS. CASTAÑUELA: Get a confirmation --

7 MS. GREEN: Once we submit it, we can -- don't
8 have to --

9 MR. VANCE: Yeah. If I were -- if I were
10 being extra careful, just to make sure you keep a copy of the
11 email so that in the event everything goes crazy, you can
12 show us that I sent you an email five minutes before 10:00
13 or, you know --

14 MS. GREEN: Well -- okay.

15 CHAIRMAN SMITH: Any other comments? I'll
16 make a motion to approve the rulemaking process --

17 MS. GREEN: Second.

18 CHAIRMAN SMITH: -- for the Commissioners to
19 approve --

20 MR. BOURGOYNE: I have a question.

21 CHAIRMAN SMITH: Yes, Emile?

22 MR. BOURGOYNE: If I wanted to suggest a
23 change to these rules, would this be the proper time or
24 should I wait till we talk about the sale of distributors at
25 that -- later down the road? My -- my point is under

1 definitions Section (b) (5), we -- can, when we submit -- when
2 we change the pull-tab ticket, we can change the serial
3 number, the index color, or the trademark without
4 resubmitting the pull-tab for approval. I would like to add
5 the ability to change or remove a distributor logo from a
6 pull-tab ticket without having to resubmit it for approval.

7 CHAIRMAN SMITH: I think that's -- Tyler, do
8 you want to go ahead?

9 MR. VANCE: So, if I may, Emile, the purpose
10 of this current rule package is just to implement the bare
11 minimum requirements of the new legislation. But tomorrow
12 we're also going to open up a rule review where every four
13 years we open up the entire section and we all talk about it
14 and decide what needs to stay or go or add new things. And
15 so I think that's a perfect opportunity for that.

16 But with this package, we're doing this
17 because under the law, we're required to adopt these rules in
18 one case by December 1st, and in the other case by January
19 1st. So, the idea here was to avoid any kind of substantive
20 discussion, if you will. Obviously, I mean, there will be
21 public comment and everything, but I only tweaked the rules
22 that absolutely needed to be tweaked to comply with the
23 statutes. But again, we're about to dive into rule review,
24 and so everything's an open book at that point, and I think
25 that's a perfect time to address this kind of concern.

1 MR. BOURGOYNE: Hey, I gotta try.

2 CHAIRMAN SMITH: Yes, sir. Okay. All right.

3 So we have a motion, a second, all in favor.

4 (Chorus of "ayes")

5 CHAIRMAN SMITH: Any opposed? All right. We
6 have approval.

7 AGENDA ITEM 7

8 CHAIRMAN SMITH: Moving on to Item Number 7,
9 Comptroller audits of units. I think Mr. Bresnen wanted to
10 speak on this. The comptroller -- just a brief overview.
11 The comptroller's office started to audit units across the
12 state and some of the units got kind of jammed up a little
13 bit. But I would like to thank Mr. Bresnen, Mr. Fenoglio,
14 Mr. Stewart and the Commission staff for stepping in so
15 quickly to get this item fixed and help out the charities in
16 Texas. So, Mr. Bresnen?

17 MR. BRESNEN: Thank you. Just by way of
18 background, if those of you are not aware of it, back in
19 2006, you may recall when bingo started, the concept of a
20 unit did not exist. So, in any given bingo hall, you might
21 had seven organizations with seven payrolls, seven sets of
22 books, seven inventories, seven everything. And so,
23 basically through Mr. Fenoglio's genius, we requested and got
24 approved by the Legislature the creation of units, so you
25 could have one set of books pursuant to a sub -- a trust

1 agreement amongst the organizations at a location. One set
2 of books, one set of inventories, all of the more
3 efficiencies could be gained by doing that.

4 In '06, the comptroller ruled that the units
5 were -- themselves were not responsible for sales tax except
6 to the extent that a member of the unit was not exempt from
7 sales tax. Not everybody that could get a bingo license is
8 exempt from sales tax. So, if you've got all tax exempt
9 organizations in the unit, then there's no sales tax due.
10 And this would be on the transactions between the
11 distributors and the organizations, or in this case, the
12 unit. If four of the five -- if there are five in an
13 organization and four of the five are tax exempt and one's
14 not, then 20 percent of the sales tax that would have been
15 due had to be paid.

16 Recently the Comptroller's Office where I did
17 service for four years ruled that -- or hired outside
18 auditors, contract auditors. And apparently those contract
19 auditors were not aware of this particular tax ruling. So,
20 we started getting notices from some people around the state
21 that they were being audited for sales tax. In one case I'm
22 aware of, somebody that didn't pay attention to the notice,
23 got passed the time to respond and ended up having to write a
24 \$60,000 check. They're probably going to get that money back
25 as a -- based on a refund request, but it sent alarm bells

1 throughout charitable bingo.

2 I started hearing from it, I reached out to
3 the Comptroller's Office, to the Chief Deputy Comptroller,
4 Lisa Craven, and I just have to say that the Comptroller
5 Glenn Heger and the Chief Deputy Ms. Craven responded
6 literally within a day and realized what had happened and
7 resolved that issue literally overnight. The reason that
8 they were able to do that and to spread the word throughout
9 all those who might've been in the noose, was because LaDonna
10 and her staff, Vivian in particular of her staff, responded
11 to our request, not only did she answer my phone call, she
12 immediately tasked Vivian with providing the list of all of
13 the units in the state to the Comptroller's Office. You had
14 a great example of inter-agency cooperation. So the
15 Comptroller's Office could not only call down the contract
16 auditor, but the contract auditor and the audit division was
17 -- had all the information they needed to make sure that all
18 of the units that were -- could have been subject to those
19 audits were not.

20 Now, I want to make clear, I want to really
21 emphasize, the Comptroller of Public Accounts is a statewide
22 elected official with lots of responsibilities for hundreds
23 of millions of dollars that go way beyond little ole
24 charitable bingo. So, for them to jump through a hoop like
25 that and take care of our problem is really worth your

1 praise. And I would encourage everybody to recognize that
2 Comptroller Glenn Hegar and his Chief Deputy Lisa Craven, did
3 a fantastic job. It was made possible because of the
4 assistance of the Lottery Commission, and it's also another
5 example of everybody in charitable bingo working together.

6 Not every -- I represent the Bingo Interest
7 Group as y'all know, which is a relatively small group of
8 commercial lessors. But they reached out to us, TCA members,
9 Bingo Interest Group members, they reached out to us looking
10 for a solution, and we were able to assist with that solution
11 because we all worked together once again. So, it really --
12 if 2023 says anything to people in charitable bingo, it's
13 been the working together, you know, pays off.

14 I want to make one caveat here. Not
15 everybody's going to be out of the noose on the sales tax.
16 If there's a charitable organization that's within a unit
17 that's not exempt under the sales tax statute, then that
18 percentage of the what would be the unit's liability for
19 sales tax will still be owed. So, some people are -- some
20 people are -- they're go -- there'll be a review and some
21 people may owe the sales tax, which should be one of our
22 number one items in our legislative program at this time is
23 to make sure everybody's exempt.

24 That said, we had a 90th birthday party for
25 Mr. Don Bishop in Dallas last weekend. And at that event,

1 somebody walked up to me and said, that saved us \$160,000.
2 That's 160 grand that goes to the bottom line of the
3 charities that were involved there. So, it's -- was
4 extraordinarily good work, great coordination and Comptroller
5 Hegar and his staff should be lauded for having taken care of
6 that in lightning time. Really appreciate it. I'm happy to
7 answer any questions.

8 MS. GREEN: No question. Again, Steve, thank
9 you for everything you did. It was just absolutely amazing.
10 But I own a retail store and if my store does not pay sales
11 tax, I don't chase the customers down the street and ask them
12 for the money. Why did they not go after the distributors
13 and say, you didn't collect this sales tax?

14 MR. BRESNEN: Well, the lia --

15 MS. GREEN: They came after the end consumer.

16 MR. BRESNEN: Well, the liability is on the
17 end consumer. You could chase that customer down, but the --
18 the fact is the tax wasn't owed. So, the distributor didn't
19 have a duty, you know, to collect it, except from those folks
20 within the unit. And one of the -- one of the problems the
21 Comptroller's Office recognized when they started talking to
22 some of the units and some of the people they were talking to
23 didn't know what the 501(c) status was of each member of the
24 unit. So that's going to filter out there a little bit. But
25 ultimately it's the buyer's responsibility to pay the -- to

1 pay the sales tax. So, I don't think the distributors could
2 be faulted. Okay. Thank, y'all.

3 CHAIRMAN SMITH: Thanks, Steve. All right.
4 No other comments on the comptroller audits?

5 AGENDA ITEM 8

6 CHAIRMAN SMITH: Moving on to Item Number 8,
7 Recent sale of distributors. We were made aware a few weeks
8 back of two of the largest distributors in the state of Texas
9 being purchased by another group. I've received many calls
10 on this asking, you know, so now they're all one company and
11 my understanding is yes, they are. But we're very fortunate
12 to have Ms. Kim Kiplin here today who represents some of
13 those people in some form or fashion. I don't want to speak
14 for you, but we're definitely grateful you're here today,
15 Kim. So, if you want to have the floor, it's yours.

16 MS. KIPLIN: Good morning. For the record, my
17 name's Kimberly Kiplin. I'm an attorney in Austin, Texas,
18 and I represent All Saints Texas, and that was the
19 distributor who did purchase the assets of Roy Bingo Supply
20 and then purchased the assets of K&B Sales. In talking with
21 you, Trace, my understanding is, the concern that's been
22 expressed is market dominance --

23 CHAIRMAN SMITH: Yes.

24 MS. KIPLIN: -- and increase in prices. I, as
25 you might imagine, have had conversation with my client about

1 that. I can't represent what the future holds, but I can
2 tell you within the near future, I don't know what that
3 means, there's not any intent to increase prices on the
4 product. I understand also that it's important for them to
5 come and visit with you all and I'm going to, after this
6 meeting, obviously reinforce that message so that you know
7 that -- who the employees are, which are -- there was an
8 employment offer made to Roy Bingo Supplies employees, and
9 there was an offer made to K&B Sales. And I think if it
10 wasn't a hundred percent, almost a hundred percent have
11 accepted those offers.

12 So, what that means on the interface with the
13 charities, you will see the same people; that will not
14 change. You know, Van Meyers is the president of All Saints
15 Texas, and Glenn Goulet is the Vice President of All Saints
16 Texas. And those -- they will be also part of an interface.
17 The manager is Larry Weinstein, and he will -- I've talked to
18 him and he has no problem coming and visiting with folks.
19 We'll do whatever we need to do to make sure that you all, as
20 customers, as the charities, whatever concerns you have are
21 satisfied as we go through these transitions. And I think as
22 time goes on, we'll see that it's, you know, nothing is ever
23 ripple free, right? But it will be about as constant as we
24 can have it.

25 And you know, I'm happy to answer any

1 questions that I can, but I'm, I appreciate you putting this
2 on the agenda. We don't have anything to hide. We're happy
3 to be as transparent as we can.

4 CHAIRMAN SMITH: And we certainly appreciate
5 that. Yeah, the -- I -- and what you brought up was market
6 dominance.

7 MS. KIPLIN: Yes.

8 CHAIRMAN SMITH: And that has been the major
9 concern that I've heard from the industry. And so I took the
10 liberty just to look at some numbers, and these are unvetted
11 numbers, okay? So they're not official. But as we all know,
12 in bingo, there's basically three major distributors in the
13 state, and that's -- that was Roy Bingo, K&B Sales, and Moore
14 Supply, with K&B being the leading distributor and then Roy
15 Bingo and then Moore Bingo Supplies.

16 But just doing some rough math, those three
17 distributors have an 85.9 percent market share of the grand
18 total in the market, which is a lot. And with K&B -- and the
19 breakdown on that was K&B having 42.1 percent, Roy Bingo
20 having 27.4 percent, and Moore having 16.34. So, you're
21 looking at roughly between Roy and K&B about 70 percent of
22 the market and that's, you know, a lot of people are
23 concerned about that, obviously, but we definitely look
24 forward to meeting with them, visiting with them, talking
25 with them and making sure that there's competition in the

1 marketplace. I know when there's more competition, there's
2 better prices for the charities and although the
3 distributors, you know, had a grand total sales of \$148-
4 million over a couple of years there, it's -- we need to
5 remember that the charities are the reason that we're here
6 and that's who we listen to.

7 But we're looking forward to talking with them
8 and we appreciate you. I thank you very much. You've
9 definitely taken a lot of stress off of me. I can now refer
10 people to the meeting minutes and say, no, it's all in the
11 meeting minutes, you don't have to call me anymore.

12 MS. KIPLIN: And I'm happy to take calls.

13 CHAIRMAN SMITH: Awesome. Thank you.

14 MS. KIPLIN: We're open to receiving feedback
15 and comments and concerns. And I'll emphasize that meeting,
16 I think personal in-person meetings with the customers are
17 fairly critical. Glenn Goulet and Van Myers are here. And I
18 think it's -- what they told me is they see it as business as
19 usual.

20 CHAIRMAN SMITH: Awesome.

21 MS. GREEN: They see it as what?

22 MS. KIPLIN: As usual.

23 CHAIRMAN SMITH: Excellent. Excellent. Thank
24 you very much. Are there any questions for Kim? No?

25 Kim, we appreciate you very much.

1 MS. GREEN: Actually --

2 CHAIRMAN SMITH: Yes, ma'am.

3 MS. GREEN: Well, I appreciate Kim, too. I
4 always have. But my concern with the distributor situation
5 now is that about, oh gosh, about six months ago, we sent an
6 email to -- I had my manager do it, send an email to every
7 distributor listed on the Lottery Commission website and
8 asking for prices on the video and prices on pull-tab. No
9 one responded.

10 MS. KIPLIN: No distributor?

11 MS. GREEN: No. Except for -- and I did not
12 use my name because I know they wouldn't respond if I used my
13 name.

14 UNIDENTIFIED VOICE: Oh.

15 MS. GREEN: Well, Good-Time would respond and
16 say, why aren't you calling anybody else.

17 So -- no, but the little guy out of Austin,
18 the -- Centex, Tom. Tommy's the only one that responded.
19 He has like, yeah, very few employees. He would not even be
20 able to service halls as big as mine.

21 But that was a very frustrating thing and
22 because we have to buy from these people. And I say, how
23 much is your pound of flour? Well, you know, that depends.
24 And then he pays a different price and she pays a different
25 price and she pays a different price. So, it is very

1 frustrating. If we could even get a price list from
2 somebody. How much are the pull-tabs? I brought that price
3 list here. I don't know if you remember about a year ago
4 showing the price has gone up between 35 to 70 percent on our
5 paper and our pull-tabs. And daubers have gone out of sight.
6 So it is, you know, easy to raise your prices. It's not that
7 easy to raise your prices when you have somebody down the
8 street selling it for \$5.

9 MS. KIPLIN: That's what you told me.

10 MS. GREEN: Yeah, just it. So --

11 MS. KIPLIN: I get it.

12 MS. GREEN: Anyway, it is interesting that I
13 did send an email out asking for a price list and no
14 distributor, not one, and that's back when it was Moore and
15 all them and Good-Time was still one.

16 MS. KIPLIN: What year was that again?

17 MS. GREEN: Six months ago.

18 MS. KIPLIN: Six months ago. I thought --
19 okay.

20 MS. GREEN: This year.

21 CHAIRMAN SMITH: Yeah. And Kim, you may not
22 be aware of that or anything, because you don't deal with
23 that end of the operations, but typically in the bingo
24 industry, if you call -- If you call a distributor and say,
25 Hey, how much is your pound of flour, if you will --

1 MS. KIPLIN: Uh-huh.

2 CHAIRMAN SMITH: -- you will -- they break it
3 down by many different ways as you would as a business. But
4 it depends on if you -- how do I phrase this -- it's --

5 MS. GREEN: -- who you are, your usage.

6 CHAIRMAN SMITH: -- your usage, who you are,
7 your usage. There's a lot of factors in there that might not
8 should be in there. You can't request a price list from
9 somebody, I think is what she's saying.

10 MS. GREEN: Right.

11 CHAIRMAN SMITH: And get a price list. None
12 of the prices are published, you know, anywhere. So you,
13 it's not like, Walmart, if you will. You can't look on their
14 website and see how much a box of tabs is. So, it's very
15 difficult for charities to plan ahead when a price increase
16 from one distributor happens, they can't go to another one
17 and go, look, we should go here, or we should go there. It's
18 over complicated and cumbersome for the charities to maximize
19 their dollars by searching competitive distributors.

20 MS. GREEN: You cannot price compare,
21 basically.

22 CHAIRMAN SMITH: Yeah, it --

23 MS. GREEN: And I feel bad for the small
24 halls.

25 CHAIRMAN SMITH: Right.

1 MS. GREEN: Because I have so many I can do, I
2 can get better prices. I've seen myself get better prices
3 than other people get, just because I buy more. And I
4 understand that's the way it is anyway. But it is very, very
5 hard to price compare.

6 CHAIRMAN SMITH: And not that you're a
7 distributor, but we --

8 MS. GREEN: Yeah, I --

9 CHAIRMAN SMITH: -- but we hope you'll relay
10 those messages.

11 MS. KIPLIN: I definitely will. I'm taking
12 notes and I think in the meetings that we can get scheduled,
13 I think that should be on the meeting agenda for each of the
14 charities or whoever wants to meet.

15 CHAIRMAN SMITH: Yeah. Excellent.

16 MS. KIPLIN: I don't know what the outcome
17 will be, but I think it needs to be discussed.

18 CHAIRMAN SMITH: Gotcha.

19 MS. KIPLIN: And I only represent Allstate --
20 All Saints.

21 CHAIRMAN SMITH: Understood.

22 MS. KIPLIN: With the other ones, I don't
23 know.

24 CHAIRMAN SMITH: Understood. Understood
25 completely. But we thank you very much.

1 MS. KIPLIN: You bet. Anytime.

2 CHAIRMAN SMITH: You really shed a lot of
3 light on. All right. Any other comments?

4 MR. BOURGOYNE: Yes, I have one.

5 CHAIRMAN SMITH: All right. Moving on.

6 MS. GREEN: No, Steve.

7 CHAIRMAN SMITH: Steve Bresnen.

8 MR. BOURGOYNE: I have one.

9 CHAIRMAN SMITH: Emile?

10 MR. BRESNEN: I defer to Emile.

11 CHAIRMAN SMITH: Emile? Go ahead.

12 MR. BOURGOYNE: Yes. I would like to ask
13 LaDonna if we could get special dispensation to be able to
14 remove or change the distributor logo on a ticket without
15 resubmitting it for approval.

16 MR. VANCE: Yeah, Emile, I think this is the
17 same issue you brought up earlier. I am not sure --

18 CHAIRMAN SMITH: Can you repeat the question?

19 MR. VANCE: He wants to know if you can remove
20 the distributor logo on a pull-tab without having to resubmit
21 it.

22 MR. BOURGOYNE: Or change it.

23 MR. VANCE: If you can just take it.

24 MR. BOURGOYNE: Or change it.

25 MR. VANCE: Or change it. Yeah. So like can

1 a new distributor sell old distributor's product that they
2 bought? And I think under the current rule that would change
3 the artwork, so it needs to be resubmitted. So, that's
4 according to the letter of the law currently. But again,
5 we're about to go through rule review and I don't see why we
6 couldn't, you know, change that rule to allow somebody that
7 bought previously approved product to sell that product under
8 their new name, provided there was some kind of, you know, on
9 the outside, some kind of label explaining this is not indeed
10 from, you know, Good-Time games anymore. This is now from
11 somebody else. You know, something like that.

12 But currently, as far as I know, it's not
13 allowed.

14 MR. BOURGOYNE: So, I guess my question would
15 be, could All Saints Texas sell Roy Bingo logo tickets?

16 MS. KIPLIN: On pull-tabs; I get it.

17 MR. VANCE: Right.

18 MS. KIPLIN: We -- we -- I will tell you this,
19 Emile. As part of the process of the notification, we filed
20 the appropriate forms on the bingo equipment, bingo product,
21 so that product is being traced or being tracked from when --
22 when All Saints purchased the assets of Roy Bingo and
23 purchased the assets of K&B Sales.

24 So, all that information, it -- the Lottery
25 Commission has, and they can track it. And that may, in the

1 interim, address the issue that you're raising on tracking
2 the inventory.

3 MR. VANCE: With the exception of trademark --

4 MR. BOURGOYNE: I'm just trying to keep us
5 clean.

6 MS. KIPLIN: Yeah, no, I get it.

7 MR. VANCE: So --

8 MS. KIPLIN: In terms of the rule review, you
9 know, I would just as a member -- as an attorney that's been
10 working in this industry, I think that's a good topic to --
11 to consider during the rule review. But I understand where
12 you're coming from as a manufacturer that's a supplier to All
13 Saints Texas.

14 MR. VANCE: So, this is Tyler Vance. I'm
15 looking at Rule 402.300(b)(5), and it says, referring to the
16 approval of pull-tab, it says if the pull-tab, a previ -- if
17 a previously approved pull-tab ticket is modified in any way,
18 with the exception of the serial number, index color or
19 trademarks, then it must be resubmitted. So, I think what
20 you're talking about is a trademark, right? You're talking
21 about the trademark of the prior distributor or manufacturer.
22 In which case the pull-tab does not need to be resubmitted.
23 That's not --

24 MR. BOURGOYNE: I would love for your office
25 to interpret trademarks as being the same as the logos from

1 the distributor. That would make my day.

2 MS. KIPLIN: So, and also just -- so just more
3 information. There are -- All Saints Texas has -- is doing
4 business, and this has been registered with the Secretary of
5 State, under Roy Bingo Supplies and also under Good-Time
6 Action. I don't have the exact mark or --

7 MR. BOURGOYNE: I have it.

8 MS. KIPLIN: Okay. I bet you do. I bet you
9 do. So, does that satisfy the --

10 MR. BOURGOYNE: Well, if the division -- if
11 charitable gaming division is going to interpret trademarks
12 as being the same thing as the distributor trademark, or
13 logo, I'm fine with that interpretation.

14 MS. KIPLIN: Okay.

15 MR. VANCE: I think, you know, I don't want --
16 I don't think we want to say absolutely right now, but it
17 looks that way and I think we'll look at it in the near
18 future.

19 CHAIRMAN SMITH: Tyler, if we need --

20 MR. BOURGOYNE: If you could give me something
21 in writing, that'd be great.

22 MS. CASTAÑUELA: Couldn't he submit a --

23 MR. VANCE: Yeah, you could request a bingo
24 advisory opinion, asking the Commission's position on the
25 meaning of trademark in that rule and whether or not it

1 encompasses exactly what it is you're looking to exempt.

2 MR. BOURGOYNE: Thank you.

3 CHAIRMAN SMITH: Thank you, Kim. Appreciate
4 it.

5 MS. KIPLIN: You bet.

6 CHAIRMAN SMITH: So, Emile, if you would like,
7 we can put this on the agenda for the next meeting. That
8 way, maybe everybody could do some research, unless you want
9 to do it through the Bingo Advisory request.

10 Ms. CASTAÑUELA: Yes.

11 CHAIRMAN SMITH: That'd be better?

12 MS. CASTAÑUELA: Yes.

13 CHAIRMAN SMITH: Okay. You good with that,
14 Emile?

15 MR. BOURGOYNE: I'm good with that. I'll make
16 that request.

17 CHAIRMAN SMITH: Excellent. Thank you, sir.
18 Steve Bresnen?

19 MR. BRESNEN: Thank you, Steve Bresnen on
20 behalf of the Bingo Interest Group. I just want to -- I --
21 you know, we've all been getting along really well in this
22 industry as I said earlier, and it's paid off. But I have to
23 say, just at a personal level, I am a lawyer. I have no
24 background particularly in antitrust law or anything, but I -
25 - the numbers scream out to me that we're -- we will now have

1 one distributor with an excess of 70 percent of the sales, at
2 least according to the numbers that were compiled for
3 calendar year 2021, '23 and the first -- I mean, '22 and the
4 first two quarters of this year. It's really significant.

5 I want to underline what Trace said; in the
6 tab market, the three largest distributors had 94.8 percent
7 of that market, 18 percent was Moore, so the other two had
8 76, 77 percent of that market. It's a concern to me. I
9 don't know what the law is in this area and I don't want to
10 be inflammatory, so I'm going to shut up. But I do think
11 that this is something that bears watching.

12 I doubt seriously that the Commission has any
13 authority to intercede, should intercession be required. So,
14 anyway, that's all I'll say today other than to underline my
15 concern in particular. I'll have to talk to my clients and
16 see if they share that concern or not. Thank y'all for
17 bringing it up, putting it on the agenda.

18 MS. GREEN: Thanks, Steve.

19 MR. BRESNEN: You bet.

20 CHAIRMAN SMITH: Any other comments? On the
21 sale of the distributors?

22 AGENDA ITEM 9

23 CHAIRMAN SMITH: Okay. I'm going to go into
24 old business real quick. Just briefly mention that we are
25 losing one of our esteemed colleagues in December. And we're

1 very saddened by this, but Emile will be finishing up in
2 December as per his request. But we are working with the
3 staff to reopen the application process for Emile's
4 replacement.

5 So, LaDonna, you want to briefly -- do you
6 have anything to add about that?

7 MS. CASTAÑUELA: We're putting together the
8 paperwork. I hope to get the email blast out and the link to
9 the nomination form, I think, in about 10 days, two weeks.
10 It'll be open for three weeks like they've been. So, that'll
11 close up some time before Thanksgiving.

12 CHAIRMAN SMITH: And Emile, I know you had
13 mentioned in one of the past meetings that you were
14 considering trying to find someone as your replacement that
15 you would recommend. And so we certainly look forward to
16 that.

17 MR. BOURGOYNE: I'll keep trying.

18 CHAIRMAN SMITH: Well, you've given them such
19 big shoes to fill, that's what the problem is.

20 MR. BOURGOYNE: Thank you.

21 CHAIRMAN SMITH: Thank you. Any other
22 comments? Mr. Bresnen?

23 MR. BRESNEN: I hate to keep popping up. I
24 didn't realize this was going to be part of the agenda.
25 Emile, I want to thank you personally for the expertise that

1 you've shared unselfishly for probably the 20, 25 years that
2 I've known you. You are always full of good advice, sage
3 counsel, expertise, and you give the whole story and -- when
4 you're asked about something and instead of just the story
5 from your side of it or your company's side of it. Really
6 appreciate your service, appreciate the way you've treated me
7 all these years, and this is a big loss. And hope you'll
8 enjoy whatever you're doing in your retirement. And God's
9 speed.

10 MR. BOURGOYNE: Thank you, Steve. And the
11 other Steve as well.

12 CHAIRMAN SMITH: Mr. Fenoglio.

13 MR. FENOGLIO: Stephen Fenoglio for the
14 record, I'm an attorney here in Austin. And Emile, I echo
15 what my colleague Bresnen said.

16 And if I may, under old business address a
17 comment Tyler had about the gift certificate rule? If I may?

18 CHAIRMAN SMITH: Yes, sir.

19 MR. FENOGLIO: That was passed in the statute
20 because the Bingo Division took the position you couldn't
21 issue a gift certificate, so we passed that in the statute as
22 it's in 2001.4155. And at the time, and I know Melodye
23 remembers this, staff insisted on subparagraph (b) which says
24 you have to follow the rules. And then we go to the rules
25 and the rules are very cumbersome to say the least. I

1 represent retailers and on occasion they issue gift
2 certificates and they don't have any of those requirements.
3 We understood somewhat why the agency wanted some of those to
4 protect against theft, but it is extremely cumbersome to do.
5 And I told, after they were drafted, the staff, well, there's
6 not going to be many people who are going to use that gift
7 certificate.

8 The vision we had at that point, and this came
9 from others, Melodye and Littlefield Corporation, which had -
10 -

11 MS. GREEN: Twenty.

12 MR. FENOGLIO: -- halls, Melodye has several
13 in the metroplex, Littlefield had them all over the state,
14 and the thought was some of their customers go from Amarillo
15 to Lubbock to central Texas, Austin, and you could issue the
16 gift certificate in Lubbock and it could be redeemed in
17 Amarillo or Austin, but you can't do that, which is not
18 unlike any other gift certificate that you purchase from a
19 retailer. Target, for example, if you buy a gift certificate
20 at Target in Lubbock, it can be redeemed in Maine.

21 So, maybe it's an issue the BAC looks at going
22 forward in the rule review. Be happy to answer any
23 questions?

24 MS. GREEN: And Steve, I totally agree. It --
25 this was made to help the charities and I said that -- the

1 BAC's here to try to streamline things and make it easier for
2 people to make money for their charities. And at this point,
3 with the prices of all the utilities going up, all the tabs
4 going up, all the video going up, we need -- and now the
5 prize fee -- the prizes are going way up, we -- this is going
6 to become very, very vital to actually the livelihood of
7 bingo to make -- to fix this, Steve, like we tried to do in
8 the beginning.

9 Who was that they got, I don't remember --

10 MR. FENOGLIO: Billy Atkins.

11 MS. GREEN: Yeah, Billy. We just need to make
12 it easier for the charities. Make it better, not harder.

13 CHAIRMAN SMITH: All right. Excellent. We'll
14 try to get that on the agenda for the next meeting during
15 rule review. Any other old business?

16 AGENDA ITEM 10

17 CHAIRMAN SMITH: If not, we'll go into the
18 next item, New business, and we will talk about Sunset
19 review.

20 We're currently going through the Sunset
21 review and we have some people from the Sunset Committee here
22 today. We would like to thank y'all for attending. We
23 appreciate that. It's always nice for people to come by and
24 take a look and actually see what we do rather than just
25 looking at what we do on paper. So, we greatly appreciate

1 that here at the Bingo Advisory Committee meeting. Is there
2 anybody -- would y'all like to speak or do you need the floor
3 for a minute, or --

4 MR. MCCONNELL: Andrew McConnell, I'm the
5 project manager, (indiscernible). We're open for comment
6 from stakeholders, public comment, my information is on the
7 Sunset Commission website. Directly after the meeting I'll
8 give you a card, whether we don't talk to anybody, we
9 appreciate any certain input. What we look at is the agency
10 still necessary, in this case we're looking at the Lottery
11 Commission and to the Bingo. Is the agency still necessary?
12 Is what they do efficient, effective, fair, and transparent?
13 And if not, are there things the Legislature could do to help
14 improve it to fix statutes and such to make it work better.
15 Thank you.

16 CHAIRMAN SMITH: Thank you very much. We
17 appreciate that. LaDonna, would y'all like to add anything?

18 MS. CASTAÑUELA: Just to bring you up to date,
19 you'll hear a little bit more about it at tomorrow's
20 Commission meeting from Ryan Mindell. But the agency
21 submitted the self-evaluation report in late August. It is
22 on the website. There is a a link to the Sunset review.
23 There will be a banner on the Lottery's website and also on
24 the Charitable Bingo website. It'll include a link that'll
25 also allow you to submit comments.

1 Of course, I think I told you all before that
2 all nine of the BAC members are listed on the stakeholder
3 list that is part of that self-evaluation report. We have
4 started our meetings with the Sunset staff members, so Sunset
5 review is here. That's it.

6 MR. MCCONNELL: Thank you very much.

7 CHAIRMAN SMITH: Any other follow-up comment
8 about Sunset review? Mr. Bresnen?

9 MR. BRESNEN: Steve Bresnen on behalf of the
10 Bingo Interest Group. I was around before the Sunset
11 Commission was created and it was done so as a serious matter
12 of government reform. So, government doesn't just keep
13 percolating along year after year and year operating in the
14 same old way without being reviewed, questioned, analyzed,
15 and re-upped. So, it's a very, very important process.

16 I have participated in the review of countless
17 number of agencies over the decades. It is a serious
18 process. It's not out to get anybody. My experience is it
19 doesn't start out with an agenda to whack somebody or to take
20 an agency apart. It has uniformly had the best staff with
21 the best intentions over time. They have a new Executive
22 Director Eric Beverly, with whom I'm familiar and have the
23 highest regard.

24 All of that said, if you're contacted by them,
25 I would encourage you to participate. Be constructive. If

1 there's a concern, by all means, you know, cite your
2 concerns, but be constructive. If you have a solution for
3 those concerns, you should recommend it. Also realize that
4 there's a statute out there. We've worked diligently now
5 over multiple sessions for a long, long time to improve that
6 statute, to streamline the regulation, get rid of stuff that
7 made no sense. Agency Lottery Commission has worked in an
8 excellent manner with us in that regard, and so we've made
9 substantial progress over the last few legislative sessions.

10 But if there are changes that need to be made
11 in the statute, it's not really up to the Commission, the
12 Lottery Commission, to be advocating for those things. So, I
13 would encourage you to think about what is there in the
14 statute that needs to be affected. This rule review gives us
15 another opportunity, yet another opportunity to look at the
16 rules. If the rules are not in sync with the statute or you
17 want the statute to say something different so the rules will
18 change, by all means communicate it to the Sunset Commission
19 staff when they come around.

20 I've had really good experience. The staff
21 comes in blind. They damn sure don't know anything about
22 charitable bingo I'd just betcha, unless they've been at B-12
23 or something down on Ben White down here playing bingo and I
24 haven't. But so -- and it's an unusual animal -- every
25 agency's got its own ins and outs for that particular

1 industry, but charitable bingo is really kind of outside the
2 mindset of most people.

3 So, take the opportunity to educate, explain
4 what we're doing, why we're doing it. I would extend an
5 invitation to the staff to come and attend a bingo occasion.
6 We'll set that up for you. Y'all have -- I've sent you an
7 email a moment ago. Y'all can -- if you'll contact me, we'll
8 set you up, here or anywhere around the state, to see what
9 people are doing and ask questions of why are they doing it
10 that way.

11 Bingo is a -- ultimately is to benefit
12 charities, but it is a commercial activity that results in a
13 benefit to charities. So, there may be things about it that
14 are unusual to the -- a new observer of it.

15 So, that said, I just want to encourage it.
16 This is a great process, it can lead to great results, but it
17 won't if you don't participate. So, I highly encourage you.
18 Thanks.

19 MS. GREEN: I just have a question.

20 MR. BRESNEN: Yes, ma'am.

21 MS. GREEN: How -- with the Sunset -- people
22 in the Sunset get a hold of us? Would it be through email?
23 Is that --

24 CHAIRMAN SMITH: They have all the contact
25 information?

1 MS. GREEN: Or phone?

2 CHAIRMAN SMITH: They put a tracker on the
3 phone.

4 MS. GREEN: Understand. You and my daughter.
5 (Pause)

6 MR. BRESNEN: Alright. Thank y'all. And if
7 y'all have any questions as things go on about that process,
8 I'll be happy to help. Okay. Thanks.

9 CHAIRMAN SMITH: Thank you very much. Any
10 other comments?

11 MS. GREEN: Okay. I have one more comment.

12 CHAIRMAN SMITH: Yes, ma'am.

13 MS. GREEN: Now, the rules, how are you going
14 to -- are you going to have committee meetings to do this or
15 --

16 MR. VANCE: Yeah, so tomorrow is proposing the
17 rule review. It's going to be open, we anticipate almost a
18 year or until probably the summer. And so anytime between
19 now and then, I don't know if you recall, a couple years ago
20 we went through it and the BAC got together, we had several
21 meetings big, long, very long meetings.

22 MS. GREEN: I was at every one of them.

23 MR. VANCE: The whole thing's an open book, so
24 anything you guys see in there that you'd like changed,
25 you're free to discuss it and then recommend it to the

1 Commission. And then at the end of rule review, that's when
2 we propose any -- anything or nothing if everyone decides
3 everything's great, then we just close rule review without
4 any changes or we then propose any changes that come out of
5 the rule review process.

6 MS. GREEN: Are you going -- are you planning
7 any meetings that we would know of ahead of time to --

8 MR. VANCE: That's up for you guys. You guys
9 can call a meeting whenever you would like. We've got our
10 usual regular scheduled ones before every Commission meeting.
11 Those are available. As we get towards the end of the
12 process, maybe we'll want to have extra special ones like we
13 did last time to really hammer down on things.

14 CHAIRMAN SMITH: And we do look forward to
15 doing that with y'all. That was -- the last rule review we
16 had was a whole lot better than we've had it previously, so,
17 definitely kudos to y'all for the way y'all did that last
18 time, so.

19 Stacie, did you have a comment?

20 MS. JOHNSTON: No. Not right now.

21 CHAIRMAN SMITH: Not right now? Okay. All
22 right.

23 AGENDA ITEM 11

24 CHAIRMAN SMITH: Moving on. If there's no
25 other new business, we'll move on to Item Number 11, Set the

1 date for the next meeting. And I think we already have that
2 as December the 12th; is that correct?

3 MS. CASTAÑUELA: Yes.

4 CHAIRMAN SMITH: December the 12th will be the
5 next BAC meeting, 10:00 a.m. right here. Yes, it is a
6 Tuesday. And then the Commission meeting will be on the
7 14th; have a split meeting at that time.

8 MS. GREEN: So, are you -- is the BAC going to
9 be --

10 CHAIRMAN SMITH: BAC meeting will be on the
11 12th.

12 MS. GREEN: Okay.

13 CHAIRMAN SMITH: All right. Any other
14 questions on the meeting date? No? All right.

15 AGENDA ITEM 12

16 CHAIRMAN SMITH: We will officially adjourn
17 the meeting at 10:31 --

18 MR. BOURGOYNE: You mean 11:31?

19 CHAIRMAN SMITH: Huh?

20 MR. BOURGOYNE: You mean 11:31?

21 CHAIRMAN SMITH: Oh, yeah. Meeting adjourned.
22 Thank you very much.

23 (Meeting adjourned)
24
25

C E R T I F I C A T E

STATE OF TEXAS)
)
COUNTY OF HARRIS)

I, Kimberly C. McCright, Certified Vendor in and
for the State of Texas, do hereby certify that the
above-mentioned matter occurred as hereinbefore set out.

I FURTHER CERTIFY THAT the proceedings of such were
reported by me or under my supervision, later reduced to
typewritten form under my supervision and control and that
the foregoing pages are a full, true and correct
transcription of the original notes.

IN WITNESS WHEREOF, I have hereunto set my hand and
seal this 20th day of October, 2023.

/s/ Kimberly C. McCright
Kimberly C. McCright
Verbatim Reporting & Transcription, LLC
17049 El Camino Real, Suite 200
Houston, Texas 77058
281.724.8600