

Commission Order No. 16-0026

Date: FEBRUARY 4, 2016

NO. 362-15-1668.B

IN THE MATTER OF	§	BEFORE THE
WILLIE JENKINS	§	TEXAS LOTTERY
BINGO REGISTRY NO. 100207	§	COMMISSION

MEMORANDUM OF AGREEMENT AND CONSENT ORDER

The parties, the Texas Lottery Commission, Charitable Bingo Operations Division (“Commission”) and Willie Jenkins, Bingo Worker Registry No. 100207, make the following Agreed Findings of Fact, Agreed Conclusions of Law and Memorandum of Agreement and enter into this Consent Order.

AGREED FINDINGS OF FACT

1. Willie Jenkins is on the Registry of Approved Bingo Workers (Registry), and has been on the Registry since March 10, 2004.
2. Between January 2005 and March 30, 2010, up to 130 illegal gambling devices were operated at or near the East Plano Bingo Hall. These gambling devices, in addition to awarding merchandise prizes and Visa gift cards, allowed players to accrue points on a “Players Card” that could be used to purchase bingo products during licensed bingo occasions at the East Plano Bingo Hall. These bingo products included bingo paper, pull-tabs and electronic card-minding devices. Willie Jenkins oversaw the operation of the illegal gambling devices. Willie Jenkins was also employed as a bingo worker at the East Plano Bingo Hall.

3. As a result of the operation of the illegal gambling devices at the East Plano Bingo Hall, Willie Jenkins was indicted for engaging in organized criminal activity by keeping a gambling place. On May 17, 2011, in the 366th Judicial District Court, Collin County, Texas, Willie Jenkins pleaded guilty to keeping a gambling place. Adjudication of guilt was deferred and Willie Jenkins was placed on Community Supervision for two (2) years.

4. Willie Jenkins successfully completed deferred adjudication and was released from probation. He has no prior criminal history and has not been charged with any further criminal activity.

5. Willie Jenkins has remained employed as a bingo worker by one or more of the organizations that conduct bingo at the East Plano Bingo Hall.

AGREED CONCLUSIONS OF LAW

1. The Texas Lottery Commission has jurisdiction over this matter pursuant to the TEX. OCC. CODE ANN., Chapter 2001, TEX. GOV'T CODE ANN., Chapter 467 and 16 TEX. ADMIN. CODE, Chapter 402.

2. TEX. OCC. CODE ANN. § 2001.313(e)(7) provides that the commission may refuse to add an individual's name to, or remove an individual's name from, the Worker Registry if the individual participated in any violation of the Bingo Enabling Act or rules adopted by the Commission for the administration of the Bingo Enabling Act.

3. TEX. OCC. CODE ANN. § 2001.416(a) states a game of chance other than bingo or a raffle conducted under Chapter 2002 may not be conducted or allowed during a bingo occasion.

4. TEX. OCC. CODE ANN. §2001.313(e)(1) provides that the Commission may refuse to add an individual's name to, or remove an individual's name from, the Worker Registry if the individual is finally determined to have been convicted of an offense listed under Section

2001.105(b) (criminal fraud or gambling-related offense).

5. Pursuant to TEX. OCC. CODE ANN. §2001.105(a)(6), the Commission is not required to issue or renew a license to conduct bingo if a person under whose name bingo will be conducted or a person working at the proposed bingo has been convicted of a gambling offense or criminal fraud.

6. TEX. OCC. CODE ANN. §2001.0541 (effective September 1, 2013) states that the Commission shall adopt rules and guidelines as necessary to comply with Chapter 53 of the Occupations Code when using criminal history record information under Chapter 2001 to issue or renew a bingo license or to list or renew the listing of an individual in the Registry.

7. TEX. OCC. CODE ANN. §53.021(d) allows a licensing authority to consider a person who has received deferred adjudication without a finding of guilt to have been convicted of an offense if a conviction for the offense would make the person ineligible for the license by operation of law and, after consideration of the factors described by sections 53.022 and 53.023(a), the licensing authority determines that: (A) the person may pose a continued threat to public safety; or (B) employment of the person in the licensed occupation would create a situation in which the person has an opportunity to repeat the prohibited conduct.

8. 16 TEX. ADMIN. CODE §402.702(d) (effective January 1, 2014) states that, generally, for purposes of applying Chapter 53, the Commission will consider an applicant's deferred adjudication for a gambling or gambling-related offense, or a criminal fraud offense, to be a conviction in accordance with §53.021(d), Occupations Code.

9. 16 TEX. ADMIN. CODE § 402.702(b)(1) (effective January 1, 2014) states that the Commission deems any gambling or gambling-related offense to be any offense listed in Penal Code, Chapter 47, Gambling; Penal Code § 71.02(a)(2), Engaging in Organized Criminal Activity;

or any offense committed, including in another state or federal jurisdiction, involving substantially similar conduct as an offense cited in Penal Code Chapter 47 or § 71.02(a)(2).

10. TEX. OCC. CODE ANN. § 53.021(a)(1) states a licensing authority may suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to take a licensing examination on the grounds that the person has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation.

11. TEX. OCC. CODE ANN. § 53.022 states in determining whether a criminal conviction directly relates to an occupation, the licensing authority shall consider:

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;
- (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
- (4) the relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

12. TEX. OCC. CODE ANN. § 53.023(a) states, in determining the fitness to perform the duties and discharge the responsibilities of the licensed occupation of a person who has been convicted of a crime, the licensing authority shall consider, in addition to the factors listed in Section 53.022:

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the person when the crime was committed;
- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person before and after the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release; and
- (6) other evidence of the person's fitness, including letters of recommendation from:
 - (A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;
 - (B) the sheriff or chief of police in the community where the person resides; and

(C) any other person in contact with the convicted person.

MEMORANDUM OF AGREEMENT

1. By signing this Memorandum of Agreement, Willie Jenkins agrees to its terms, acknowledges his understanding of it, and waives his right to all procedural requirements for the entry of the Order, including but not limited to the right to notice of hearing, a formal hearing, a proposal for decision, a rehearing and any right to seek judicial review of this Order.

2. The effective date of this Order shall be the date it is entered into by the Commission.

3. Should the Commission determine that Willie Jenkins has participated in a subsequent violation of TEX. OCC. CODE ANN. § 2001.416, or 16 TEX. ADMIN. CODE § 402.211, the Commission may seek removal of Willie Jenkins from the Registry of Approved Bingo Workers. Willie Jenkins may contest the findings of the Commission that he violated TEX. OCC. CODE ANN. § 2001.416 or 16 TEX. ADMIN. CODE § 402.211 in accordance with TEX. GOV'T CODE ANN., Chapter 2001, and request a hearing. Willie Jenkins agrees should a violation of TEX. OCC. CODE ANN. § 2001.416 or 16 TEX. ADMIN. CODE § 402.211 be found by the Commission, removal from the Registry of Approved Bingo Workers is the presumptive appropriate sanction.

4. Should the Commission find that Willie Jenkins has participated in a subsequent violation of the Bingo Enabling Act or Rules other than TEX. OCC. CODE ANN. § 2001.416 or 16 TEX. ADMIN. CODE § 402.211, the parties agree the Standard Administrative Penalty Guidelines in TEX. ADMIN. CODE § 402.706, or the Expedited Penalty Guidelines in TEX. ADMIN. CODE § 402.707, apply and may be assessed at the discretion of the Charitable Bingo Operations Division Director.

5. Willie Jenkins agrees that he will not be a Bingo Chairperson, manager, operator, bookkeeper, or designated agent for any bingo conductor organization for three (3) years from the effective date of this Order.

6. Willie Jenkins agrees that this Memorandum of Agreement and Consent Order, and the Agreed Findings of Fact and Agreed Conclusions of Law contained herein, can be admitted in any future administrative action initiated against him by the Texas Lottery Commission.

7. Willie Jenkins acknowledges and agrees that if, after a hearing conducted in accordance with TEX. GOV'T CODE ANN., Chapter 2001, on the sole issue of compliance with the Order, it is found that Willie Jenkins has failed to comply with the terms of the Order, the Commission may seek any and all sanctions and remedies including the removal of Willie Jenkins from the Registry of Approved Bingo Workers and administrative monetary penalties.

AGREED AS TO FORM AND SUBSTANCE:

WILLIE JENKINS
Bingo Registry No. 100207

By:

Willie Alan Jenkins

Willie Jenkins

TEXAS LOTTERY COMMISSION,
CHARITABLE BINGO OPERATIONS
DIVISION

Alfonso D. Royal III
Alfonso D. Royal III, Director
Charitable Bingo Operations
Division

Date:

1-8-16

Date:

01-13-2016

Commission Order No. 16-0026

Date: FEBRUARY 4, 2016

362-15-1667.B

IN THE MATTER OF	§	BEFORE THE
WILLIE JENKINS	§	TEXAS LOTTERY
BINGO REGISTRY NO. 100207	§	COMMISSION

CONSENT ORDER

NOW, THEREFORE, IT IS ORDERED by the Texas Lottery Commission, based on the above Agreed Findings of Fact, Agreed Conclusions of Law and Memorandum of Agreement, which are hereby adopted and incorporated by reference as if fully set out and separately stated herein, as follows:

(1) IT IS ORDERED by the Texas Lottery Commission that, in lieu of removing Willie Jenkins from the Registry of Approved Bingo Workers, effective the date this Memorandum of Agreement and Consent Order is signed and entered by the Commission, Willie Jenkins shall not act as a Bingo Chairperson, manager, operator, bookkeeper, or designated agent for any licensed bingo conductor for three (3) years.

(2) IT IS FURTHER ORDERED by the Texas Lottery Commission that if, after a hearing on the sole issue of compliance with the Consent Order, it is found that Willie Jenkins has failed to comply with the terms of the Consent Order, the Commission may seek removal of Willie Jenkins from the Registry of Approved Bingo Workers, together with administrative monetary penalties and any other remedies and sanctions authorized by law.

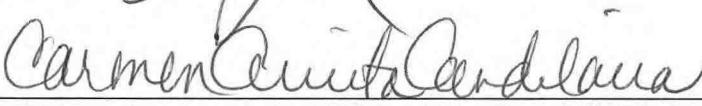
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Date: FEBRUARY 4, 2016

Passed and approved at the regular meeting of the Commission at Austin, Texas on the
4TH day of FEBRUARY, 2016.

Entered on this the 4TH day of FEBRUARY, 2016.


J. WINSTON KRAUSE, CHAIRMAN


CARMEN ARRIETA-CANDELARIA, COMMISSIONER


PEGGY A. HEEG, COMMISSIONER


DOUG LOWE, COMMISSIONER


ROBERT RIVERA, COMMISSIONER