

OFFICE OF THE GOVERNOR

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STATE OF ALABAMA

September 20, 2016

Via Email and United States Mail

Honorable Charlotte Tesmer
District Attorney
700 Court Sq.
Greenville, 36037

John Williams
Lowndes County Sheriff
Post Office Box 157
Hayneville, AL 36040

Re: Electronic Bingo Operation in Lowndes County in Violation of Alabama Law

Dear District Attorney Tesmer and Sheriff Williams:

It is widely known that White Hall and Southern Star have reopened and continue as of today's date to operate electronic bingo machines. This is a violation of Alabama law.

Electronic bingo has been clearly disallowed by Alabama case law as a form of lottery prohibited under Alabama's Constitution. Recently, the Alabama Supreme Court, in *Houston County Economic Development Authority v. State of Alabama*, 168 So.3d 4, 9 (Ala. 2014), stated:

“[t]his Court repeatedly has held that “bingo” is a form of lottery prohibited by Ala. Const. 1901, Art. IV, § 65. See, e.g., *Barber Cornerstone Cmty. Outreach, Inc.*, 42 So.3d 65, 78 (Ala. 2009); *City of PiedmontEvans*, 642 So.2d 435, 436 (Ala. 1994).”

The various local Constitutional Amendments that provide exceptions to the general prohibition of lotteries permit *only* the traditional form of bingo. The Alabama Supreme Court has consistently held that these amendments do not allow bingo to be played on electronic devices. In 2010, when considering Amendment 674 (applicable in Lowndes County), the Alabama Supreme Court recognized that the game of bingo is

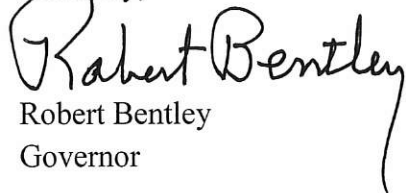
“a game that is not played by or within the electronic or computerized circuitry of a machine, but one that is played on physical cards (typically made of cardboard or paper) and that requires meaningful interaction between those who are playing and someone responsible for calling out the randomly drawn designations corresponding to designations on the players' cards.”

Riley v. Cornerstone Cmty. Outreach, Inc., 57 So. 3d 704, 734 (Ala. 2010). The Court has reiterated and solidified that holding recently. *State of Alabama v. \$223,405.86*, -- So. 3d ---, 2016 WL 127039 (Ala. 2016); see also *Houston Cty. Econ. Dev. Auth. v. State*, 168 So. 3d at 18 (2014). These holdings clearly indicate that the game of bingo may not be played on electronic machines in Lowndes County.

On November 5, 2015, Governor Bentley issued Executive Order No. 13 to reiterate longstanding Alabama law requiring enforcement of state laws by local law enforcement. Specifically, “the primary responsibility for enforcement of Alabama’s criminal laws shall remain with the sheriffs and district attorneys of each County as guided by their careful interpretation of the laws of the State of Alabama in their capacity as constitutional officers and officers of the courts.” See Governor Bentley Executive Order Number 13. A sheriff and district attorney may not personally interpret the laws of our state contrary to the interpretation of our Supreme Court. Regardless of personal opinion or public sentiment, the sheriffs and district attorneys of each County must enforce the law as interpreted by the Alabama Supreme Court.

In accordance with Alabama law and echoed by Governor Bentley’s Executive Order No. 13, we jointly call upon you in your roles as local law enforcement officers to enforce Alabama law prohibiting lotteries and gift enterprises, including electronic bingo, by enjoining the continued operation of the illegal electronic bingo presently ongoing at the White Hall and Southern Star facilities, through the use of appropriate law enforcement action. In order to ensure that appropriate and timely action is taken to stop this illegal activity, please provide written acknowledgement of this directive and details of your planned enforcement by September 30, 2016, to our offices.

Sincerely,


Robert Bentley
Governor



Luther Strange
Attorney General