

No. 31540

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

STATE OF WEST VIRGINIA, *ex rel.*
ITS CITIES OF CHARLESTON AND HUNTINGTON
AND ITS COUNTIES OF OHIO AND KANAWHA,

Petitioners,

v.

WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY,
a public corporation,

Respondent.

No. 31541

STATE OF WEST VIRGINIA, *ex rel.*
REV. JIM LEWIS and JOHN COONEY,

Petitioners,

v.

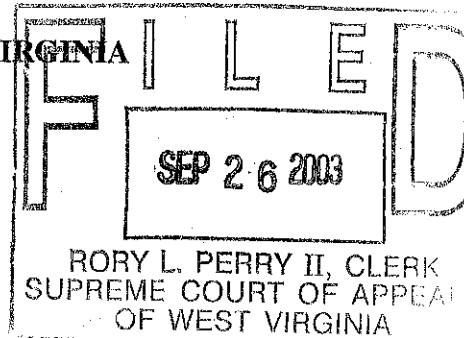
WEST VIRGINIA ECONOMIC DEVELOPMENT GRANT COMMITTEE,
WEST VIRGINIA ECONOMIC DEVELOPMENT AUTHORITY,
CITY OF CHARLESTON, KANAWHA COUNTY COMMISSION,
CITY OF HUNTINGTON, and OHIO COUNTY COMMISSION,

Respondents.

No. 31564

GREENBRIER COUNTY COALITION
AGAINST GAMBLING EXPANSION,
and CABELL COUNTY COALITION
AGAINST GAMBLING EXPANSION,
unincorporated associations,

Petitioners,



v.

**WEST VIRGINIA LOTTERY COMMISSION,
and ITS DIRECTOR, JOHN MUSGRAVE,**

Respondents.

SUBMISSION OF EVIDENCE BY RESPONDENTS
THE WEST VIRGINIA LOTTERY COMMISSION AND JOHN C. MUSGRAVE

Pursuant to this Court's order of September 23, 2003, Respondents, the West Virginia Lottery Commission and John C. Musgrave, respectfully submit evidence in these consolidated cases.


Respondents have previously submitted relevant evidence in one of the cases. Attached to Respondents' Application to Intervene in No. 31540 was the original affidavit of Virgil T. Helton. Although this evidence is already of record, Respondents attach a copy of the Helton affidavit for the convenience of the Court. *See* Exhibit 1.

Respondents also herewith submit as Exhibit 2 the affidavit of Respondent John C. Musgrave, with exhibits annexed.

Respectfully submitted,

THE WEST VIRGINIA LOTTERY COMMISSION, and
JOHN C. MUSGRAVE,

By counsel,


THOMAS R. GOODWIN (WV Bar # 1435)
Special Assistant Attorney General
JOHNNY M. KNISELY II (WV Bar # 4968)
GOODWIN & GOODWIN LLP
300 Summers Street, Suite 1500
P.O. Box 2107
Charleston, WV 25328-2107
(304) 346-7000

AFFIDAVIT OF VIRGIL T. HELTON

Virgil T. Helton, CPA, first being duly sworn, states as follows:

1. I am over the age of twenty-one years and am competent to testify as to all matters related to this affidavit.
2. I am the deputy Director for Finance and Administration of the State Lottery Office and its Chief Financial Officer; the State Lottery Office is an agency of the Department of Tax and Revenue. I have served in this capacity for six years. Prior to my service with the Lottery Office, I was the Chief Financial Officer of CDI Engineering in St. Albans, West Virginia. Prior to that I have been employed in the banking industry, primarily in West Virginia in different management positions. In addition, I was employed by two of the large international (Big Four) CPA firms for a period of seven years. I hold a Bachelor of Science degree in Accounting from Concord College. The West Virginia Board of Accountancy licenses me to practice public accounting as a Certified Public Accountant. I am familiar with the operations of the West Virginia Lottery Commission, and I have experience in making and analyzing revenue projections for lottery games. As part of my duties, I have access to the papers and records of the West Virginia Lottery Commission kept in the ordinary course of its affairs and in furtherance of its duties imposed by law.
3. The State Lottery Commission raises state revenues from three major sources: instant (scratch-off) lottery games; traditional on-line numbers games such as PowerBall; racetrack lottery games; and limited video lottery games. Instant and on-line traditional games are authorized by West Virginia Code article 29-22; racetrack video lottery games are authorized by West Virginia Code article 29-22A; and limited video lottery games are authorized by West Virginia Code article 29-22B.
4. The State Lottery Commission deposits lotteries into two major funds: the State Lottery Fund and the State Excess Lottery Fund.
5. In the fiscal year that ended June 30, 2003, instant and on-line traditional lotteries produced \$44 million in net revenue for the State Lottery Fund.
6. In the fiscal year that will end June 30, 2004, instant and on-line traditional lotteries will produce approximately \$41 million in net revenue for the State Lottery Fund.
7. In the fiscal year that ended June 30, 2003, racetrack video lottery games produced \$130.1 million in net revenue for the State Lottery Fund.

EXHIBIT

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8. In the fiscal year that will end June 30, 2004, racetrack video lottery games will again produce \$130.1 million in net revenue for the State Lottery Fund.
9. In the fiscal year that ended June 30, 2003, racetrack video lottery games produced \$131.4 million in net revenue for the State Excess Lottery Fund.
10. In the year that will end June 30, 2004, racetrack video lottery games will produce \$150 million in net revenue for the State Excess Lottery Fund.
11. In the year that ended June 30, 2003, limited video lottery games produced \$82.1 million in net revenue for the State Excess Lottery Fund. This amount includes \$11.1 million in various fees as prescribed in the Limited Video Lottery Act from manufacturers, operators, retailers and service technicians.
12. In the fiscal year that will end June 30, 2004, limited video lottery games will produce \$97.9 million in net revenue for the State Excess Lottery Fund. This amount includes \$9.7 million in various fees as prescribed in the Limited Video Lottery Act from manufacturers, operators, retailers and service technicians.
13. Revenues from the State Lottery Fund were \$170 million in fiscal year 2003. In addition to the \$170 million, supplemental appropriations increased the total appropriated amount to \$213.7 million for the fiscal year that ended June 30, 2003. State Lottery Fund revenues are appropriated each year for many purposes as outlined in West Virginia Code §29-22-18. Eighteen million dollars were appropriated for School Building Authority debt services. Ten million dollars were appropriated for the EAST Fund debt service. Fifty-six million dollars were appropriated to the Bureau of Senior Services. Forty million four hundred thousand dollars were appropriated to the Department of Education. Four million one hundred thousand dollars were appropriated to the Educational Broadcasting Authority. Nine million six hundred thousand dollars were appropriated to the Library Commission. Forty-three million dollars were appropriated to Higher Education. Nineteen million dollars were appropriated to Tourism. Three million six hundred thousand dollars were appropriated to Natural Resources. Five million nine hundred thousand dollars were appropriated to the Division of Culture and History. And, four million one hundred thousand were appropriated to the Department of Education and Arts.
14. Revenues from the State Lottery Fund are estimated to be \$171 million in fiscal year 2004. State Lottery Fund revenues are appropriated each year for many purposes as outlined in West Virginia Code §29-22-18. Eighteen million dollars is appropriated for School Building Authority

debt services. Ten million dollars is appropriated for the EAST Fund debt service. Thirty-eight million three hundred thousand dollars is appropriated to the Bureau of Senior Services. Thirty-five million eight hundred thousand dollars is appropriated to the Department of Education. Four hundred thousand dollars is appropriated to the Educational Broadcasting Authority. Nine million four hundred thousand dollars is appropriated to the Library Commission. Thirty-six million eight hundred thousand dollars is appropriated to Higher Education. Eleven million seven hundred thousand dollars is appropriated to Tourism. Three million two hundred thousand dollars is appropriated to Natural Resources. Four million seven hundred thousand dollars is appropriated to the Division of Culture and History. And, two million seven hundred thousand is appropriated to the Department of Education and Arts.

15. Racetrack video lottery revenues come from the four licensed racetracks' video lottery operations. The four tracks are: PNGI Charles Town Gaming, Mountaineer Racetrack and Gaming Resort, Tri State Racetrack and Gaming Center and Wheeling Island Gaming.
16. Revenues from the State Excess Lottery Fund were \$213.5 million in fiscal year 2003. Of this total, \$131.4 came from racetrack video lottery and \$82.1 million came from limited video lottery.
17. Racetrack video lottery revenues in the State Lottery Fund were \$130.1 million in fiscal year 2003.
18. Revenues from the State Excess Lottery Fund are estimated to be \$247.9 million in fiscal year 2004. Of this total, \$150 will come from racetrack video lottery and \$97.8 million will come from limited video lottery.
19. Racetrack video lottery revenues in the State Lottery Fund are estimated to be \$130.1 million in fiscal year 2004.
20. During fiscal year 2003, municipalities and county governments received \$13.3 million from racetrack video lottery and \$3.4 million from limited video lottery.
21. During fiscal year 2004, municipalities and county governments are projected to receive \$14.4 million from racetrack video lottery and \$4.3 million from limited video lottery.
22. Currently the State's four pari-mutuel racetracks employ nearly 4,800 persons. The approximate breakdown is: Charles Town Races - 1,272; Mountaineer Racetrack and Gaming Resort - 1,700; Wheeling Island Gaming - 1,000; and Tri State Racetrack and Gaming Center - 800. Prior to video lottery gaming, each track employed approximately 300 persons.

23. The Limited Video Lottery Act, specifically §29-22B-501(a)(1)through(4), provides for four different types of licenses. The employees of two of the four such license holders (operator's and retailer's) would be adversely impacted if limited video lottery were deemed unconstitutional.

There are currently thirty-four licensed limited video lottery operators. In total these thirty-four video operators have 238 employees on their payroll that would become unemployed.

There are currently 1,314 licensed limited video lottery retailers. Those retailers currently employ 5,018 individuals. Information provided from a number of independent sources indicates that 70% of this number, or over 3,500 individuals would lose their current employment.

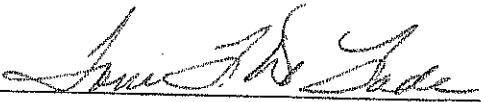
Further the affiant sayeth naught.

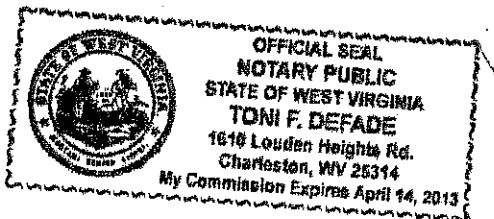

Virgil T. Helton

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, TO WIT:

The foregoing was sworn to and acknowledged before me by VIRGIL T. HELTON this twelfth day of September, 2003.

My commission expires: April 14th 2013


Notary Public



AFFIDAVIT OF JOHN C. MUSGRAVE

John C. Musgrave, Director of the state Lottery Office, first being duly sworn, states as follows:

1. I am over the age of twenty-one years and am competent to testify as to all matters stated in or related to this affidavit.
2. I am the Director of the State Lottery Office. I have served in this capacity for more than six years. I was appointed to my office initially by then-Governor Cecil H. Underwood in 1997, and I was reappointed to my office by Governor Bob Wise in 2001.
3. My staff has reviewed the petition for Writ of Mandamus filed on September 16, 2003, with this Court by the Greenbrier County Coalition Against Gambling Expansion and others, and I understand that the petition alleges as facts certain aspects of the operation of limited video lottery games as they are regulated, controlled, owned and operated by the State of West Virginia through the West Virginia State Lottery Commission and the State Lottery Office.
4. The West Virginia State Lottery Commission and the State Lottery Office are legally and properly administering the Limited Video Lottery Act, W.Va. Code §29-22B-101 et seq., in accordance with provisions of that act and the accompanying legislative rule, 179 CSR 5.
5. The West Virginia State Lottery Commission and the State Lottery Office have enforced the statutory provisions in W.Va. Code §29-22B-702(13) and 706(12) denying the right of licensees to advertise limited video lottery games. Civil Penalties and warnings have been issued by the Director and by the Commission concerning both retailer and operator advertising violations.¹
6. The State Lottery Office has, over the seventeen-year existence of the State Lottery and its games, engaged in extensive advertising and promotion activities for the State's traditional games such as instant scratch-off tickets and on-line numbers games such as Daily 3 and PowerBall. Nothing in the State Lottery Act prohibits advertising lottery games, and all state lotteries in the United States engage in such activities.
7. The State Lottery Office has, over the thirteen-year existence of the video lottery games at state racetracks, rarely if ever engaged in advertising activities involving racetrack video lottery games, even though the Racetrack Video Lottery Act, W.Va. Code §29-22A-1 et seq., does not proscribe advertisements. Indeed, W.Va. Code §29-22A-9(f)(12) says that

¹ See Exhibit A.

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a licensed racetrack shall "conduct no video lottery advertising and promotional activities without the prior written approval of the Director." The State Division of Tourism sometimes conducts cooperative advertising campaigns with one or more racetracks because racetracks have become tourism destinations.

8. The State Lottery Office has, over the two-year existence of limited video lottery games, never engaged in advertising activities for limited video lottery games. Some limited video lottery retail locations, however, sell both limited video lottery games and traditional instant and on-line lottery games and are allowed to advertise traditional games.
9. Much has been said in newspaper articles and on radio programs about the recent practice of limited video lottery retailers calling their businesses "casino." The Limited Video Lottery Act, W.Va. Code §29-22B-702(14), says a retailer may not use the words "video lottery" in the name of the location or in any directions or advertising visible from the outside of the retail location. Many retailers have gone to the Secretary of State's Corporations Division to change the corporation name of the facility to something that includes a gambling term such as "casino." In response to this recent practice, the West Virginia State Lottery Commission has proposed a change to its legislative rule that would read as follows: "A limited video lottery licensed retailer shall not use words commonly associated with gambling either when displaying its corporation name or its doing-business-as name."² This amendment is currently awaiting review by the Legislative Rule-Making Review Committee.
10. Limited video lottery game machines must display the rules of play either on the front of the machine or on the computer help screen. The machine gaming industry calls the front area of the machine the "glass" area. This is where information on vinyl film is attached to the reverse side of Plexiglas panels so they can be backlit.
11. Documents disclosing house hold percentages for each limited video lottery game have been distributed to all limited video lottery retail locations. Our field employees have advised that these documents be posted behind the cashier's station rather than on the machines, because players may remove them if they are posted near the video lottery terminals.
12. Testing of video lottery terminals and games has been performed by Gaming Laboratories International, Inc., an independent testing laboratory located in Lakewood, New Jersey. Gaming Laboratories International is the largest gaming machine testing company in the world. The founder of Gaming Laboratories International is James R. Maida who holds computer

² Proposed new rule subsection 179-5-34.4.

science engineering and law degrees and who has qualified as an expert witness in gaming and electronic game testing in several states. Since May 11, 1994, Gaming Laboratories International has tested all video lottery games for the West Virginia Lottery. One of the several tests performed is for payout percentages. First, the laboratory connects the game to a computer program and a large number of games are played to test the game for randomness. The tests run to determine if a game is random include the tests required by law: Chi Square Test; Runs Test; Correlation Test; and Serial Correlation Test.³ Once the games are determined to be random, the testing laboratory then calculates the payout percentage using standard methods of probability theory. The tests and calculations not only answer the question of whether the games fall within the eighty-to-ninety-five-percent statutory parameter, but whether a game, for example, pays out at 91.26% as it has been designed and programmed to do.

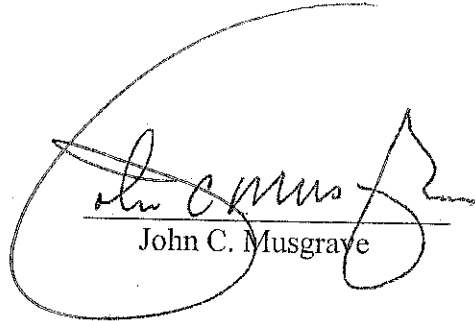
13. Petitioners cite §29-22B-330 that says, "video lottery does not include a lottery game which does not utilize an interactive electronic terminal device allowing input by a player." This provision of the Limited Video Lottery Act was copied by the Legislature from the earlier Racetrack Video Lottery Act, §29-22A-3(aa) to show that the keno-style game called *TRAVEL* in the Lottery Act was a traditional lottery game rather than a video lottery game. W.Va. Code §29-22-9(a)(5) and legislative rule §179-1-2.28.
14. The State Lottery Office has printed thousands of problem gambling stickers and provided them to limited video lottery retailers as well as the four licensed racetracks⁴. Exhibit B to this affidavit is comprised of the invoices for printing and the stickers themselves. Lottery field employees conducting compliance inspections of racetracks and limited video lottery locations have these requirements on their compliance checklists.
15. Since the passage of W.Va. Code §29-22A-19 in 1999, the West Virginia State Lottery Commission has budgeted \$500,000 each fiscal year for compulsive gambling programs procured by the Department of Health and Human Resources. In this fiscal year 2004, the budget has increased to \$741,000. Exhibit C to this affidavit are the most recent agreements for such services.
16. The West Virginia State Lottery Commission and the State Lottery Office have complied with the requirements of the Racetrack Video Lottery Act and the Limited Video Lottery Act to regulate, control, own and operate video lotteries. The central control computer that controls video lottery

³ These tests for randomness are required by W.Va. Code §29-22A-6(b) and W.Va. Code §29-22B-909.

⁴ Racetracks receive only the *1-800 GAMBLER* stickers.

games both at racetracks and at limited video lottery locations is owned by the State of West Virginia. The West Virginia State Lottery Commission has a five-year software license from International Game Technology (IGT) for the "S.A.M.S. 4" software that controls the games in the manner provided by statute. The West Virginia State Lottery Commission also has purchased software licenses from each manufacturer for the game software of video lottery terminals connected to the central control computer. The State Lottery Office also claims ownership and control of the EPROMs (game chips) on which the game software resides. When video lottery terminals are shipped from West Virginia or destroyed, Lottery representatives retrieve and retain the game EPROMs from the machines.

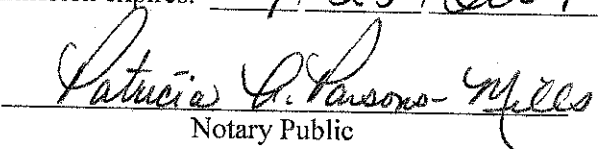
Further the affiant sayeth naught.


John C. Musgrave

STATE OF WEST VIRGINIA,
COUNTY OF KANAWHA, TO WIT:

The foregoing was sworn to and acknowledged before me by John C. Musgrave this twenty-sixth day of September, 2003.

My commission expires: 9/25/2009


Notary Public

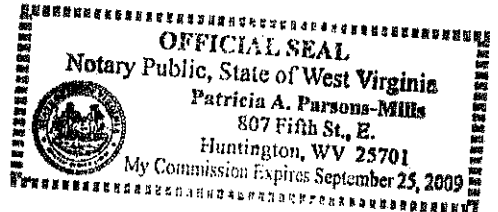


EXHIBIT A**CIVIL PENALTIES and WARNINGS****Video Lottery Advertising / Promotional Activity:**

Novichenk's LLC, dba *Tailgator's Pub II*, Morgantown – first offense, \$100 penalty
 City Perk Café, Parkersburg - first offense, \$100 penalty
 Kom Pak Good Luck Shop, Parkersburg - first offense, \$100 penalty
 State Line Restaurant, Inc., Weirton - first offense, \$100 penalty
 Gig & B's, Inc., dba *Starlite Club*, Weirton - first offense, \$100 penalty
 Ajax Amusement Machines, Inc., Martinsburg - first offense, \$1,000 penalty
 Wilmon Foods Industries, LLC, dba *Fox's Pizza Den*, Fairmont – first offense, \$100 penalty
 S.E.D. Investments, Inc., dba *Video Palace I*, Huntington – first offense, \$100 penalty
 CJ's Olde Main Pub, Inc., dba *Keeno's*, St. Albans – first offense, \$100 penalty
 Beckley Plaza Lounge, Inc., Beckley – first offense, \$100 penalty (3-03)
 Hollywood Gaming, Inc., dba *Dick's Swiss Burger*, Bluefield – first offense, \$100 penalty (3-03)
 Hollywood Gaming, Inc., dba *Cadillac Jack's*, Bluefield – first offense, \$100 penalty (3-03)
 Kenna Corp., dba *Kenna's*, Oak Hill – first offense, \$100 penalty (3-03)
 GRH, Inc., dba *Bogey's Place*, Hurricane – first offense, \$100 penalty (4-03)
 East River Mountain Properties, Inc., dba *Bailey's Restaurant Lounge & Dome*, Bluefield – first offense, \$100 penalty (7-03)
 Nitro Food Service LLC, dba *Patty's*, Charleston – first offense, \$100 penalty (7-03)
 Gold and Blue Restaurant, Inc., dba *Classic's Restaurant Lounge*, Dellslow – first offense, \$100 penalty (7-03)
 Joli, Inc., dba *Cross Lanes Lottery*, Charleston – first offense, \$100 penalty (7-03)
 4 & R, Inc., dba *Journeez*, Elkins – first offense, \$100 penalty (8-03)
 Valentino's Hideaway LLC, Elkins – first offense, \$100 penalty (8-03)
 Legion of Guardsmen #003, Parkersburg – first offense, \$100 penalty (8-03)
 Kom Pak Good Luck Shop, Parkersburg – second offense, \$1,000 penalty (8-03)
 The Owls Nest 1230, Inc., dba *Owls Nest 1230*, Parkersburg – first offense, \$100 penalty (9-03)
 Ajax Amusement Machines, Inc., Martinsburg - second offense, \$10,000 penalty (9-03)
 Cheaper Cigs, Inc., dba *Bailey's*, Huntington – first offense, \$100 penalty (promotion) (9-03)

Warnings:

Circle 5, Inc., dba *Brier Inn*, Lewisburg
 Coyotes, Inc., dba *Coyotes Bar & Grill*, Charleston
 Airport Tavern Association, Bluefield
 Emerald Isle, LLC, dba *Emerald Isle Pub & Eatery*, Parkersburg
 Luthers, LLC, Huntington
 WV Polo Club, Inc., Parkersburg
 Murad's At 35th Street, Charleston (4-03)
 Frum's, Friendly
 Lucky Retreat, LLC, Bunker Hill (3-03)
 J.P. Henry's, Inc., dba *J.P. Henry's Restaurant* (3-03)
 Bee Recca, Inc., dba *Muttley's Downtown* (6-03)
 Block & Barrel Two, Inc., dba *Block & Barrel Deli and Casino*, Bridgeport (9-03)

Underage Person(s) in Limited Video Lottery Area:

Roadhouse Bar & Grill, West Hamlin - first offense, \$100 penalty
 Improved Order of Redmen Iroquois Tribe 93, Parkersburg - first offense, \$100 penalty

Deerfield Village Food Service, LLC, dba *Village Restaurant & Gigi's Pizza Café*, Davis – first offense, \$100 penalty
 Strike Zone Lounge, Huntington - first offense, \$100 penalty
 Lilly's Place, Huntington - first offense, \$100 penalty
 Chapmanville Pub & Grubb, Chapmanville - first offense, \$100 penalty
 Elk River Tavern, Charleston - first offense, \$100 penalty
 Tap Room of Buckhannon, Buckhannon - first offense, \$100 penalty
 Elk Lunch Café Assoc., Gassaway - first offense, \$100 penalty (no posting – no separate room for LVL machines) and second offense, \$200 penalty (minor present) – \$300 penalty total
 Valentino's Hideaway LLC, Elkins - first offense, \$100 penalty
 G & B's Woodland Inn I, Ridgeley - first offense, \$100 penalty
 J.W. Legg, Inc., dba *Java Garden*, Ridgeley - first offense, \$100 penalty
 The Federal Group, Inc., dba *Clarion Hotel & Conference Center*, Shepherdstown – first offense, \$100 penalty
 Escape Corporation, dba *Plaza Restaurant & Lounge*, Dunbar – first offense, \$100 penalty
 VFW-Adam Poe Post 3526, New Cumberland – first offense, \$100 penalty
 The Koffee Shop, Inc., dba *Fiddlestix*, Moundsville – first offense, \$200 penalty (under-aged playing machines)
 Doc Holidays, Inc., dba *Weekends*, Oak Hill – first offense, \$100 penalty (3-03)
 Kenna Corp., dba *Kenna's*, Oak Hill – first offense, \$100 penalty (5-03)
 White Stallion Club, New Cumberland – first offense, \$200 penalty (underage playing machines) (5-03)
 K.C. Smith Enterprises, Inc., dba *Mr. Smith's Bar & Grill*, Weirton – first offense, \$200 penalty (underage playing machines) (5-03)
 PWO Organization, Inc., dba *Kamikaze's Night Club*, Chester – first offense, \$200 penalty (underage playing machines) (5-03)
 Lamb Chops Club, Martinsburg – first offense, \$100 penalty (6-03)
 D.C.R. Corporation, dba *Log Cabin Club*, Kearneysville – first offense, \$100 penalty (6-03)
 LA Lakeview Associates, L.P., dba *Lakeview Resort*, Morgantown – first offense, \$100 penalty (6-03)
 Pride, Inc., dba *Southern Pride*, Hurricane – first offense, \$200 penalty (under-aged playing lvi games) (6-03)
 Hi-Lad, Inc, dba *Comfort Zone & Comfort Inn*, Parkersburg – first offense, \$100 penalty (7-03)
 Brewster's Pub, Cross Lanes – first offense, \$100 penalty (7-03)
 Shenanigan's, Inc., dba *Johnny & Ramona's Lounge*, Huntington – first offense, \$100 penalty (7-03)

Warnings:

Jo Mama's Café, Wheeling
 Paul's Cabana Club, Weirton

Non-Compliance with Surveillance Equipment:

Tackett's Pub, Kearneysville - first offense, \$100 penalty (not retaining video tapes for 60-day period)
 Joey's of Teays Valley, Teays Valley - first offense, \$100 penalty
 Soccorsi Grocery & Tavern & Subs, Masontown - first offense, \$100 penalty
 Loose Cannons, Inc., Inwood - first offense, \$100 penalty
 T. Weston, Inc., dba *The Ridgeley Saloon*, Martinsburg - first offense, \$100 penalty
 Chicken Jubilee, Inc., dba *Hagenbuch's Family Restaurant*, Ridgeley - first offense, \$100 penalty
 Jerry Cochran, dba *Cochran's*, Morgantown - first offense, \$100 penalty
 Sperry-Davis VFW Post 9151, Salem - first offense, \$100 penalty
 Improved Order of Redmen Mohican Tribe #95, Williamstown – first offense, \$100 penalty
 Rainbow Road Club, Rippon – first offense, \$100 penalty
 Barney's Grocery & Restaurant, Martinsburg – first offense, \$100 penalty
 Susie's Bar & Grill, Charleston – first offense, \$100 penalty
 Kaness Creek House, Inc., Whitehall – first offense, \$100 penalty
 Tackett's Pub, Kearneysville - first offense, \$100 penalty (incorrectly aimed camera)
 T & Y, Inc., dba *South Hills Golf Club*, Parkersburg – first offense, \$100 penalty (3-03)

Ridgeley VFW Post 6452, Ridgeley – first offense, \$100 penalty (3-03)
The Beacon Restaurant, LLC, Bridgeport – first offense, \$100 penalty (4-03)
Finish Line, Inc., dba *Finish Line*, Ranson – first offense, \$100 penalty (4-03)
B.P.O. Elks Lodge 778, Martinsburg – first offense, \$100 penalty (4-03)
Pride, Inc., dba *Southern Pride*, Hurricane – first offense, \$100 penalty (4-03)
RLS, Inc., dba Fisher's Pool Room, Charleston – first offense, \$100 penalty (5-03)
Shepherdstown Beverage Corp., dba Altos Club, Martinsburg – first offense, \$100 penalty (5-03)
T T & G, Inc., dba Truckers Tavern & Grill, Princeton – first offense, \$100 penalty (5-03)
Al's Amusements, Inc., dba Hot Shots Pub, Chester – first offense, \$100 penalty (5-03)
M.T.M. Omelet Stoppe, dba *Omelet Stoppe*, Ona – first offense, \$100 penalty (9-03)

Warnings:

Conner Enterprises, Inc., dba *Hurricane Nick's*, Cross Lanes
Rick's Sports Arena, Moundsville
McClure House Hotel & Conference Center, LLC, dba *Rio Lounge*
C & J's Restaurant, LLC dba *C & J's Dairy King*, Valley Bend
American Legion Post #45, dba *Veterans Club*, Follansbee
Sparchane Enterprises, Inc., dba *Undo's Stag and Doe*, Benwood
Jerry's Bar, McMechen
Station Grill, Martinsburg
Legion of Guardsmen Post #2, Wheeling
Wagner Links, LLC, dba *Stonebridge Golf Club*, Martinsburg
Moundsville Elks #282, Moundsville
American Legion Post #1, Wheeling (3-03)
Red Caboose, Clarksburg (3-03)
Dorothy Blankenship dba *Shep's Bar*, Millwood (4-03)
Hummer Enterprises, Inc., dba *Icon*, Huntington (8-03)
The Café, Inc., Crab Orchard (8-03)
Mountain State Regular Veterans Association #57, dba *Raffles*, Bluefield (8-03)
Ceredo-Kenova American Legion Post 93, Kenova (8-03)
Oasis Lounge, Weirton (8-03)
Warwood Veterans Association, Wheeling (8-03)
Lynn Street Tavern Club, Inc., Parkersburg (9-03)
Tap Room of Buckhannon, Buckhannon (9-03)
The Winner Circle Club, Inc., Ranson (9-03)
The Friendly Lounge Assoc., dba *The Friendly Lounge*, Sistersville (9-03)

Incomplete Maintenance Logbooks:

Crowell's Village Store, Martinsburg - first offense, \$100 penalty
Danny Ray's Raw Bar & Grill, Kearneysville - first offense, \$100 penalty
C & P Enterprises, Inc., dba *Crazy Charlie's*, Terra Alta - first offense, \$100 penalty
Images, Inc., Bunker Hill - first offense, \$100 penalty

Warnings: (none)

LVL Terminals Visible:

Ace of Clubs, Inc., Bunker Hill – first offense, \$100 penalty
Carter Enterprises, Inc., dba Tobacco Hut II, Huntington – first offense, \$100 penalty
Cheaper Cigs, Inc., dba *Bailey's*, Huntington – first offense, \$100
Novichenk's LLC, dba *Tailgator's Pub II* – first offense, \$100 penalty

Little Figs, Inc., dba *Figaretti's Restaurant*, Wheeling – first offense, \$100 penalty
Hugo's Pizza, Huntington – first offense, \$100 penalty
Keller's Family Restaurant, Hedgesville – first offense, \$100 penalty
Four Sisters, Inc., dba *Country Roads Restaurant*, Hedgesville – first offense, \$100 penalty
CJ's Olde Main Pub, St. Albans – first offense, \$100 penalty
Hideaway Lounge, Inc., dba *Pikeview Lounge* - first offense, \$100 penalty
Thomas Snack Shop, Mullens - first offense, \$100 penalty (4-03)
Loyal Order of Moose Lodge No. 1371, Romney – first offense, \$100 (4-03)
JMA, Inc., dba *Stats Sports Bar*, Barboursville – first offense, \$100 (6-03)
Joli, Inc., dba *Cross Lanes Lottery*, Charleston – first offense, \$100 penalty (7-03)
Krauts Creek Corp., dba *Spring Valley Golf Club*, Huntington – first offense, \$100 penalty (9-03)

Warnings:

F & A Cheers Association, dba *Cheers*, Moundsville
Lynn's Games, LLC, Falling Waters
Old Mill Club, Inc., dba *Kegler's Sports Bar*, Morgantown (8-03)
M & A Enterprises, LLC, dba *Pines Restaurant*, Keyser (9-03)

Off-contract Inducement:

Ajax Amusement Machines, Inc., Martinsburg – first offense, \$300 penalty
Ohio River Amusement Co., Follansbee – first offense, \$300 penalty
Shaffer Amusements Co., LLC, Clarksburg – first, second and third offense, \$300 penalty for each offense, totaling \$1,200 (3 locations)

Warnings: (None)

Petroleum Products:

Warnings:

Tater' Pit Stop, Inc., Nitro
TLJ Corp., dba *Dave's Tavern & Grill*, Charleston

Miscellaneous Infractions:

Schul, Inc., dba *Windmill Lounge*, Wheeling – ATM in video gaming area vicinity - first offense, \$100 penalty
Jackson Perks Post #71, Inc., dba *Veterans Post Home*, Charles Town – unauthorized move of video lottery terminals - first offense, \$100 penalty
Summit Ltd., Billings, Montana – unauthorized EPROMS – first offense, \$6,000
Spielo, Moncton NB, Canada, - for shipping an M5 card with unapproved chips for the limited video lottery market – first offense, \$1,000
Moose Lodge #1444, Charleston – paying winning tickets in whole dollars – first offense, \$100 penalty
Derrick Video, LLC, Charleston – unauthorized transportation of terminals – first offense, \$100 penalty
Mill Place Restaurant, Bruceton Mills – nonpayment upon presentment of valid winning tickets – first offense, \$100 penalty (3-03)
The New Nineteenth Hole Assoc., Wheeling – nonpayment upon presentment of valid winning tickets – first offense, \$100 penalty (4-03)
A-1 Amusement, Inc., Vienna – excess number of terminals authorized on permit – first offense, \$15,000 penalty (4-03)
G & S Tobacco Dealers, LLC, dba *High Roller Club V*, Weston (ATM in LVL game room) – first offense, \$100 penalty (9-03)

Warnings:

The Fireplace Restaurant & Sports Bar, Princeton – Multiple operator contracts
Lee Jay Amusements, Parkersburg – delivery of terminals to unlicensed location
Improved Order of Redmen Iroquois Tribe 93, Parkersburg – paying winning tickets in whole dollars
C.J. Maggie's, Buckhannon - paying winning tickets in whole dollars
Shaffer Amusements Co., LLC, Clarksburg – unauthorized transportation of terminals (incomplete transportation forms)
State Line Restaurant, Inc., Weirton – non-payment upon presentment of valid winning tickets (3-03)
Geno's Bar & Grille, Inc., Inwood – "CAUTION" Gambling sign not posted (8-03)
Chesapeake Volunteer Fire Dept., dba *CVFD Gaming Center*, Chesapeake - non-payment upon presentment of valid winning tickets (9-03)



MUSGRAVE AFFIDAVIT
EXHIBIT B

INVOICE

ACCOUNT NUMBER	WVL 0055
AMOUNT ENCLOSED	0020033-I

Lizabeth White, Dep. Director
WV Lottery Commission
P. O. Box 2067

Charleston WV 25327

REMITTANCE

CHARLES RYAN ASSOCIATES
P.O. BOX 2464
CHARLESTON, WEST VIRGINIA 25329

IF YOU HAVE ANY QUESTIONS REGARDING THIS BILL,
CONTACT ACCOUNTS RECEIVABLE AT (304) 342-0161.

(IF YOU ARE TAX EXEMPT UNDER IRS CODE, PLEASE SUBMIT
TAX EXEMPT CERTIFICATE AND DISREGARD SALES TAX.)

Thank You For Your Business.

INVOICE NUMBER: 0020033-IN
 INVOICE DATE: 01/31/02
 DUE DATE: DUE UPON RECEIPT

Video Lottery

PO# LOT267

EXPENSES:

01/31/02	Wheeler/Rinstar: 2,200	1,739.40	%	7.5	1,869.86	<i>See attached</i>
01/31/02	Imperial Grap: Video N	3,681.74	%	7.5	3,957.87	

Production - ADV TOTAL: 5,827.73

TOTAL EXPENSES: \$ 5,827.73

AMOUNT DUE: \$ 5,827.73

I hereby certify that the items listed
hereon have been received and approv-
ed for payment.

Date 2/2/02 Name Lizabeth White

WHEELER / RINSTAR / LTD

210 WEST 29 STREET / NEW YORK, NY 10001 / TEL. 212.244.1130 / FAX 212.594.4697

INVOICE

INVOICE DATE

INVOICE NO.

01/09/02

20336

SOLD TO:

Charles Ryan Associates Inc
Accounts Payable
300 Summer Street, Suite 1100
Charleston, WV 25301

SHIPPED TO:

West Virginia Lottery
312 MacCorkle Avenue SE
Charleston, WV 25314
Attn: Alvin Rose

25033
1/31

SALESMAN YOUR P.O. NO. DATE ORDERED DATE SHIPPED SHIPPED VIA ORDER NO.

P Golden 0009103 01/02/02 01/07/02 Sureway 13369

QUANTITY DESCRIPTION UNIT PRICE AMOUNT

2,200	7.5 x 7.5 12Pt C/2/S 2/2 Dangler: "Caution—Gambling Can Be Hazardous" With Barbed String Ceiling Clips	.6925/Ea	1,523.50
	Prep	80.00/Lot	80.00
	Freight	135.90/Lot	135.90

JAN 11 2002

NO SALES TAX – SHIPPED OUT OF NEW YORK STATE

TOTAL AMOUNT DUE:

1,739.40

Thank You!

Job WVL 055
 Task 247
 G/L 4020-20
 Bill 1,869.86

RECEIVED JAN 29 2002

Terms: Net 15 Days

ORIGINAL INVOICE

Imperial Graphics INCORPORATED

450 EAST 22ND STREET • LOMBARD, ILLINOIS 60148
FAX 630-916-1217 TELEPHONE 630-916-0977

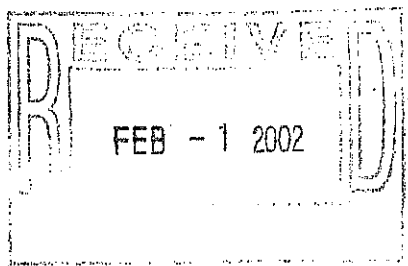
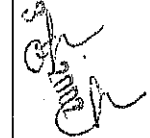
DATE 01/24/2002 INVOICE # 518323

BILL TO:

Charles Ryan Associates
Attention: Accounts Payable
300 Summers Street
Charleston, West Virginia 25301

SHIP TO:

WV Lottery Security
Attention: Alvin Rose
312 MacCorkle Avenue SE
Charleston, WV 25314

P.O. NUMBER	TERMS	REP	SHIP	VIA	F.O.B.	PROJECT
9089	Net 30	RW	01/24/2002	RPS	Origin	148833-A
QUANTITY	ITEM CODE	DESCRIPTION			PRICE EACH	AMOUNT
10,500	DC	West Virginia Lottery Video Nameplates			0.348	3,654.00
1	SH	Shipping charge			27.74	27.74
		Order complete				
						
					Job <u>WVL 055</u>	ENTERED JAN 31 2002 
					Task <u>261</u>	
					G/L <u>4020-20</u>	
					Bill <u>3,957.87</u>	
					7.5	
Thank you for your order-- we appreciate your business!						TOTAL \$3,681.74



Charles Ryan
Associates

Lizabeth White, Dep. Director
WV Lottery Commission
P. O. Box 2067

Charleston WV 25327

REMITTANCE

CHARLES RYAN ASSOCIATES
P.O. BOX 2464
CHARLESTON, WEST VIRGINIA 25329

INVOICE

ACCOUNT NUMBER	WVL 0055
AMOUNT ENCLOSED	0021245-I

IF YOU HAVE ANY QUESTIONS REGARDING THIS BILL,
CONTACT ACCOUNTS RECEIVABLE AT (304) 342-0161.

(IF YOU ARE TAX EXEMPT UNDER IRS CODE, PLEASE SUBMIT
TAX EXEMPT CERTIFICATE AND DISREGARD SALES TAX.)

Thank You For Your Business.

INVOICE NUMBER: 0021245-IN

INVOICE DATE: 04/30/02

DUE DATE: DUE UPON RECEIPT

Video Lottery

PO# LOT267
Computer Graphics-ADV

Page 16

1.00 @ 45.00 45.00

TOTAL FEES:\$ 45.00

LIMITED
- NOTE - BOOK TO "VIDEO LOTTERY"

EXPENSES:

04/30/02	O'Ryan Gp: Gambling La	424.96	%	7.5	456.83	<i>- stickers</i>
04/30/02	W R Ltd: Dangers/Gamb	2,993.60	%	7.5	3,218.12	<i>- dangers</i>
04/30/02	RPC: 1,500 Newsletters	1,626.78	%	7.5	1,748.79	<i>- Newsletters</i>
04/30/02	RPC: Mail/Labels	126.05	%	7.5	135.50	<i>- Metal Plates</i>
04/30/02	Imperial G: Video N-pl	3,510.13	%	7.5	3,773.39	

Production - ADV TOTAL: 9,332.63

TOTAL EXPENSES:\$ 9,332.63

AMOUNT DUE: \$ 9,377.63

I hereby certify that the items listed
hereon have been received and approved
for payment.

Date 5/22/02 Name [Signature]

few 5/22



Charles Ryan
Associates

Lizabeth White, Dep. Director
WV Lottery Commission
P. O. Box 2067

Charleston WV 25327

REMITTANCE

CHARLES RYAN ASSOCIATES
P.O. BOX 2464
CHARLESTON, WEST VIRGINIA 25329

INVOICE

ACCOUNT NUMBER	WVL 0055
AMOUNT ENCLOSED	0024561-I

IF YOU HAVE ANY QUESTIONS REGARDING THIS BILL,
CONTACT ACCOUNTS RECEIVABLE AT (304) 342-0161.

(IF YOU ARE TAX EXEMPT UNDER IRS CODE, PLEASE SUBMIT
TAX EXEMPT CERTIFICATE AND DISREGARD SALES TAX.)

Thank You For Your Business.

INVOICE NUMBER: 0024561-IN

INVOICE DATE: 11/30/02

DUE DATE: DUE UPON RECEIPT

Video Lottery (LVL)

PO# LOT267

EXPENSES:

11/26/02 Wheeler R: Gambling/Da 2,843.70 % 7.5 3,056.98

Production - ADV TOTAL: 3,056.98

TOTAL EXPENSES: \$ 3,056.98

AMOUNT DUE: \$ 3,056.98

I hereby certify that the items listed
hereon have been received and approved
for payment.

Date 12/19/02 Name [Signature]

AW
12/19/02

WHEELER / RINSTAR / LTD

210 WEST 29 STREET / NEW YORK, NY 10001 / TEL. 212.244.1130 / FAX 212.594.4697

INVOICE

INVOICE DATE

INVOICE NO.

11/18/02

21171

SOLD TO:

Charles Ryan Associates Inc
Accounts Payable
300 Summers Street, Suite 1100
Charleston, WV 25301

245tel
11/20

SHIPPED TO:

West Virginia Lottery
320 MacCorkle Avenue SE
Charleston, WV 25314
Attn: Alvin Rose

SALESMAN YOUR P.O. NO. DATE ORDERED DATE SHIPPED SHIPPED VIA ORDER NO.

P Golden 0010998 11/04/02 11/11/02 Truck 13916

QUANTITY DESCRIPTION UNIT PRICE AMOUNT

5,500 7.5 x 7.5 12Pt C/2/S 2/2 Dangler:
"Caution—Gamling Can Be Hazardous"
With Barbed String Ceiling Clips .4925/Ea 2,708.25
Freight 135.45/Lot 135.45

NOV 9 5 2002

NO SALES TAX – SHIPPED OUT OF NEW YORK STATE

TOTAL AMOUNT DUE: 2,843.70

Thank You!

Job _____
ask _____
G/L _____
" _____

WVL 055

261

4020-20

3,056.98

7.5

RECEIVED

NOV 9 5 2002

Terms: Net 15 Days

ORIGINAL INVOICE



**Charles Ryan
Associates**

Lizabeth White, Dep. Director
WV Lottery Commission
P. O. Box 2067

Charleston WV 25327

REMITTANCE

CHARLES RYAN ASSOCIATES
P.O. BOX 2464
CHARLESTON, WEST VIRGINIA 25329

INVOICE

ACCOUNT NUMBER	WVL 0055
AMOUNT ENCLOSED	0025438-I

IF YOU HAVE ANY QUESTIONS REGARDING THIS BILL,
CONTACT ACCOUNTS RECEIVABLE AT (304) 342-0161.

(IF YOU ARE TAX EXEMPT UNDER IRS CODE, PLEASE SUBMIT
TAX EXEMPT CERTIFICATE AND DISREGARD SALES TAX.)

Thank You For Your Business.

INVOICE NUMBER: 0025438-IN

INVOICE DATE: 01/31/03

DUE DATE: DUE UPON RECEIPT

Video Lottery - Problem Gambling stickers

PO# LOT267
Computer Graphics-ADV

Page 16

1.50 @ 45⁰⁰ 67.50

TOTAL FEES:\$ 67.50

EXPENSES:

01/23/03	Ample: Warning Labels	597.41	% 7.5	642.22

	Production - ADV TOTAL:			642.22

	TOTAL EXPENSES:\$			642.22

AMOUNT DUE: \$ 709.72

*VINYL
stickers*

I hereby certify that the items listed
hereon have been received and approv-
ed for payment.

Date 2/24/03 Name *[Signature]*

[Signature]



Charles Ryan
Associates

Lizabeth White, Dep. Director
WV Lottery Commission
P. O. Box 2067

Charleston WV 25327

REMITTANCE

CHARLES RYAN ASSOCIATES
P.O. BOX 2464
CHARLESTON, WEST VIRGINIA 25329

INVOICE

ACCOUNT NUMBER	WVL 0055
AMOUNT ENCLOSED	0027890-I

IF YOU HAVE ANY QUESTIONS REGARDING THIS BILL,
CONTACT ACCOUNTS RECEIVABLE AT (304) 342-0161.

(IF YOU ARE TAX EXEMPT UNDER IRS CODE, PLEASE SUBMIT
TAX EXEMPT CERTIFICATE AND DISREGARD SALES TAX.)

Thank You For Your Business.

INVOICE NUMBER: 0027890-IN

INVOICE DATE: 07/31/03

DUE DATE: DUE UPON RECEIPT

Video Lottery - *new LVL machine stickers (20,000)*

PO# LOT305
Computer Graphics-ADV

Page 15
.50 @ *5500* 27.50

TOTAL FEES: \$ 27.50

EXPENSES:

07/31/03 Ample: Video/warning 1 759.25 % 6.0 804.81

Production - ADV TOTAL: 804.81

I hereby certify that the items listed
hereon have been received and approved
for payment.

TOTAL EXPENSES: \$ 804.81

Date 8/21/03 Name Lizabeth White

LIZABETH C. WHITE
DEPUTY DIRECTOR
FOR MARKETING

AMOUNT DUE: \$ 832.31

Approved for payment by:

[Signature]
Director

Date 8/22/03

CAUTION: Gambling and playing this machine can be hazardous to your health, your finances and your future.

Call 1-800-GAMBLER if you need
confidential help with a gambling problem

Call 1-800-GAMBLER if you need
confidential help with a gambling problem

Call 1-800-GAMBLER if you need
confidential help with a gambling problem

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confidential help with a gambling problem

Call 1-800-GAMBLER if you need
confidential help with a gambling problem

MUSGRAVE AFFIDAVIT

EXHIBIT C

INTERAGENCY AGREEMENT

This AGREEMENT is made and entered into this 24th day of February, 2003, by and Between the Bureau of Behavioral Health and Health Facilities, an agency of the West Virginia Department of Health and Human Resources, hereinafter referred to as "Bureau", and the West Virginia State Lottery Commission, an agency of the West Virginia Department of Tax and Revenue, hereinafter referred to as "Lottery". Both parties to this AGREEMENT are governmental agencies of the State of West Virginia. This AGREEMENT is made pursuant to and under authorization of W. Va. Code §29-22A-19 and §29-22B-1408(a)(1).

I. RECITALS

A. To fulfill the requirements of W. Va. Code §29-22A-19 and §29-22-B-1408(a)(1) and to provide meaningful services to persons in this State who may experience compulsive gambling disorders related to playing Lottery games, the Lottery and the Bureau agree to a joint effort to provide appropriate behavioral health services to those persons.

B. Funds to pay for such services are to be paid from the allowance for racetrack video lottery administrative costs provided by W. Va. Code §29-22A-10(b) and from the allowance for limited video lottery administrative costs provided by W.Va. Code §29-22B-1408(a)(1).

II. COVENANTS

A. Scope and Term.

This Agreement covers the joint operation by the parties to this agreement beginning February 24, 2003 and continuing in full force and effect without renewal or reaffirmation until either party revokes it. This Agreement may be canceled or rescinded upon written notice by either party hereto to the other party, by certified United States Mail, postage prepaid, to the last known address of the addressee, given at least one hundred twenty (120) days before the close of the fiscal year next preceding. The day of postmark shall be effective date of such notice. Cancellation of this Agreement shall not be effective until July 1 of the fiscal year succeeding the fiscal year in which notice is given and shall be subject to review by the Governor who shall receive contemporaneous notice. This Agreement may be modified or amended during its term by mutual agreement of the parties.

B. Obligations of the Bureau of Behavioral Health Services and Health Facilities

1. The Bureau shall develop criteria for comprehensive hotline, assessment and treatment programs for West Virginia residents who have compulsive gambling problems. Eligible programs may receive grants from funds made available for such programs pursuant to this section.
2. The Bureau, with the approval of the Lottery, shall develop and issue a grant for the distribution of available lottery funds, with input and approval of the Lottery, which will result in an equitable distribution of services among West

Virginia based programs. Those programs will provide toll-free hotline, assessment and referral for treatment services to persons with a primary diagnosis of compulsive gambling, and appropriate assistance to the significant others, friends and families of persons with a primary diagnosis of compulsive gambling.

3. The Bureau, or its grant recipients, will collect and assemble the necessary information and data that will facilitate the Lottery's preparation of its annual report to the Legislature.

C. Obligations of the West Virginia Lottery.

From its allowance for administrative expenses as provided by W. Va. Code §29-22A-10(b) and §29-22B-1408(a)(1), the West Virginia State Lottery Commission will appropriate each fiscal year sufficient funding as will, in its sole opinion, provide funds for compulsive Gambling treatment programs in the state. To this end, the Commission will appropriate at least three hundred thousand dollars, and not more than one million, five hundred thousand dollars, to the "Compulsive Gambling Treatment Fund" created by W. Va. Code §29-22A-19. In setting each fiscal year's appropriation for this purpose, the Commission will be guided by the Bureau's recommendations for program funding and the availability of Lottery administrative funds from the two sources.

III. BILLING AND PAYMENT

The Lottery will transfer funds from the Compulsive Gambling Treatment Fund to the Bureau in response to the invoices of the Bureau and its grantee. An invoice for grant funding shall be made by the Bureau to the Lottery in advance at the beginning the

program, and thereafter quarterly. The Lottery shall promptly pay the amount due on such invoices to the Bureau.

IV. AMENDMENTS

A. This Agreement may be amended upon the terms reached in conference upon notice by either party to the other, and the amendment shall be affixed to this Agreement as an addendum hereto duly executed by each party. The amendment conference shall be attended by both directors and held within 10 days after giving of notice as aforesaid.

V. Execution

IN WITNESS WHEREOF, the West Virginia Office of Behavioral Health Facilities has executed this Agreement, and the West Virginia State Lottery Commission has voted to authorize the same to be executed by its Director as of the date stated in the first paragraph of this agreement.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Bureau for Behavioral Health and Health Facilities
~~Office of Behavioral Health Services~~

By *Jerry Lowrey*
Its Commissioner

THE WEST VIRGINIA STATE LOTTERY COMMISSION

By *John C. Musgrave*
John C. Musgrave, Director
In behalf of the
West Virginia State Lottery Commission

Approved as to form.
Darrell V. McGraw, Jr.
Attorney General

by _____
Deputy or Assistant Attorney General



STATE OF WEST VIRGINIA
OFFICE OF THE ATTORNEY GENERAL
CHARLESTON 25305

DARRELL V. McGRAW, JR.
ATTORNEY GENERAL

(304) 558-2021
FAX (304) 558-0140

March 11, 2003

Stephen S. Mason, Director
Division on Alcoholism and Drug Abuse
350 Capitol Street, Room 350
Charleston, WV 25301-3702

Dear Mr. Mason:

Thank you for the Interagency Agreement. The Attorney General's office has requested that such Agreements and Memoranda of Understanding be forwarded to our office prior to signature so that we might be apprised of the scope and nature of the Agreements. However, we have not to date required that they be approved as to form. You might simply note that such approval is not applicable nor required on the returned Agreement.

Very truly yours,

A handwritten signature in black ink, appearing to read "DLH", with a long horizontal stroke extending to the right.

DEBRA L. HAMILTON
MANAGING DEPUTY ATTORNEY GENERAL

DLH/jy
Enclosure

Additional funding investment for the State to reach and assist a variety of problem gamblers and/or their loved ones

Goal: To offer outpatient treatment funding to clients who are without alternate payer nor means to self-pay for care.

The current \$50K funding level for 03-04 PGHN contract year only will cover 10 outpatient sessions for 66 gamblers. Helpline calls average 50 per month at present, 60% of which accept a referral for assessment, of which 70% keep the appointment. Of those, 33% want treatment and their ability to pay has not been tracked by this program to date. If 50% have no insurance nor ability to pay full cost of treatment and if these trends persist or increase as little as 10%, the PGHN of WV will need an additional \$50,000 for treatment funding to cover outpatient treatment for another 66 gamblers at 10 sessions each.

TOTAL for ADDITIONAL TREATMENT FUNDING through 6/30/04 \$50,000

Approved by Lottery Director

Goal: To offer limited outpatient treatment funding, up to three (3) sessions each to loved ones of problem gamblers who are without alternate payer nor means to self-pay for care.

These family members are often without resources themselves, have issues in their relationships with the gambler that may need resolution as well as need help re-establishing residence, finances, relationships, etc. We have noted numerous cases of domestic violence against these clients by their gambling spouses and the goal of offering three sessions is to support their significant other in any changes they need to make.

TOTAL for additional treatment funding through 6/30/04 \$25,000

Approved by Lottery Director

GOAL: to attract and retain the most qualified clinicians in the state to assess problem gamblers and their loved ones:

Because we require a two-hour block of time for these assessments, no-show referrals are particularly hard on practicing clinicians compared to a no-show for a one hour block of time. Some EAP programs now pay \$10/hour for a no-show referrals of theirs and in order for the program to maintain goodwill amongst its assessing clinicians, we propose to pay \$20 for each no-show which should be no more than 50 for the remainder of the contract year \$1000

Approved by Lottery Director

Operation GROW GA (Gamblers Anonymous)

GOAL #1: to support the creation of new Gamblers Anonymous meeting in non-served areas such as Beckley, Princeton/Bluefield, Morgantown and other key areas

GOAL #2: to support the addition of daytime or alternate evening time GA meetings in areas currently underserved such as Charleston, Wheeling, Parkersburg and other key areas

Purchase a supply of Gamblers Anonymous handbooks, brochures and other start-up materials \$3000
Provide travel reimbursement expenses for Trusted Servant Warren B., Kim M. and other GA leaders so that they may be able to go to these targeted areas to start and support these new meetings \$7,000
TOTAL to Grow Gamblers Anonymous **\$10,000**

Approved by Lottery Director

Project Football

GOAL: to reach compulsive sports/football betters
Buy an ad in each program for MU and WVU \$5,000
Secure 4 billboards to/from both MU and WVU stadiums (total 8) \$400
Three month rental (Sept/Oct/Nov) @\$300/mo. X 8 boards \$7200
Fly the 1-800-GAMBLER banner over select home games \$5,000
TOTAL to Reach Football/Sports Batters **\$27,600**

NOT Approved by Lottery Director

Project BINGO

GOAL: to reach compulsive BINGO and PULL-TABS players
Identify the 50 largest BINGO games in WV
Contact organizer and ask them to place posters and brochures around the game \$500
Place a billboard with BINGO/PULL-TABS graphics close to each site for three months
50 poster panels @ \$50 \$2500
50 posters @ 3 month posting @ \$300/mo. \$45,000
TOTAL to Reach BINGO and PULL-TABS Players **\$48,000**

NOT Approved by Lottery Director

Project Basketball

GOAL: to reach compulsive sports/basketball betters

Buy an ad in each program for MU and WVU	\$5,000
Secure 4 billboards to/from both MU and WVU coliseums (total 8)	\$400
Three month rental (Dec/Jan/Feb) @\$300/mo. X 8 boards	\$7200
Hang a 1-800-GAMBLER banner inside the coliseum for select games	\$5,000
TOTAL to Reach Football/Sports Batters	\$27600

NOT Approved by Lottery Director

GENERAL POPULATION PREVENTION PSA's through WV Broadcasters

Goal #1: to encourage RESPONSIBLE GAMBLING and offer help for those who can't

Secure a recognizable, credible figure to be featured in radio/TV PSA ads which run for three months (Sept/Oct/Nov) that encourage people to play responsibly by suggesting the following:

- 1) never bet more than you can afford to lose
- 2) pay all you bills and household expenses first before you even think of gambling
- 3) it is entertainment, not a way to earn a living

TOTAL to do Responsible Gambling PSA's \$30,000

Approved by Lottery Director

Youth Prevention PSA's

GOAL: the discourage underage gambling

Create radio/TV PSA's to run for three months (jan/feb/march) targeted at youth and their parents with the following themes:

- 1) it is illegal to gamble if under age
- 2) you wouldn't give a child a beer to drink or a cigarette to smoke so why give them a lottery ticket or allow them to place bets at the races
- 3) gambling is adult only entertainment

Total to reach youth for prevention \$30,000

Approved by Lottery Director

WV Council on Problem Gambling

GOAL: To help expedite the start-up of this council, comprised of reps from the Lottery, Race Tracks, Consumers and Clinicians and other vested parties

TOTAL: \$10,000
Approved by Lottery Director

The Significant Other BILLBOARD Campaign

GOAL: to reach family members of problem gamblers so that they might call for help since most gamblers in denial:

Create billboard design that shows adult female holding a small child "We have a gambling problem...He will be home any minute" and post one in each County seat for 3 months

TOTAL: \$50,000
Approved by Lottery Director - however, we would like some input into the creative and for our logo to appear on the billboards.

National Training

GOAL: to send the state's top five (5) clinicians who have treated the most problem gamblers to the 2004 National Conference on Problem Gambling in Pheonix

TOTAL for Airfare, conference registration, hotel and meals \$6000

WOMEN GAMBLERS Campaign

GOAL: Although considered a 50/50 disorder, far more males than females have called for help. Target them for special three months of TV/Radio ads featuring Kim Murphy, recovering female compulsive gambler

TOTAL COST MEDIA CAMPAIGN FOR WOMEN GAMBLERS \$30,000
Approved by Lottery Director

Problem drinkers campaign

GOAL: as it is well-documented that most gambling venues offer alcohol and that many problem drinkers also have a gambling problem, this group should be targeted for outreach.

- 1) make posters that show the back of a guy on a barstool/back of a guy on a stool in front of a machine that say "Problem drinkers are often in a position to become problem gamblers
- 2) Deliver these posters to each substance abuse treatment program in the state
- 3) Educate staff at each SA tx program

TOTAL COST: \$5000
NOT Approved by Lottery Director

Race Track Brochures

GOAL: the help race tracks meet state compliance by having problem gambling materials available. Design and distribute a tri-fold brochures made out of easily foldable paper, that describes the symptoms of the disorder, warning signs and encourage gamblers to call for help

TOTAL:

\$5000

Approved by Lottery Director

CERTIFICATE OF SERVICE

I, Johnny M. Knisely II, one of counsel for the Respondents West Virginia Lottery Commission and John C. Musgrave, certify that service of the foregoing "Submission of Evidence by Respondents The West Virginia Lottery Commission and John C. Musgrave" was made this 26th day of September, 2003, by placing true and correct copies thereof in the United States Mail, addressed as follows:

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