

# Oklahoma Lottery Commission

## Minutes of Regular Meeting

August 15, 2006 – 1:30 p.m.

### Members Present:

Mr. Orbison, Chairman  
Mr. Norick, Vice-Chairman

Mr. Riley, Treasurer  
Mr. Charlton

### Members Absent:

Dr. Dzialo, Secretary  
Ms. Ball

Mr. Paul

### Others Present:

Jim Scroggins, Exec. Director, OLC  
Rollo Redburn, OLC  
Angel Riggs, Tulsa World  
Gay Tudor, AG's Office  
Joe Rockett, Andrews Davis  
Sandra Harrison, Andrews Davis  
Brian Ervin, Capitol Network News

Beverly Hughes, OLC  
Penny Nicholson, OLC  
Jennifer Pitts, Journal Record  
Mary K. Wills, SGI  
Allen Blankinship, SGI  
Janice Smith, Journal Record

## ITEM 1

### Call to Order. Roll Call and Announcement of Quorum

Roll Call: Mr. Orbison, Mr. Norick, Mr. Riley, and Mr. Charlton were present. Dr. Dzialo, Ms. Ball, and Mr. Paul were absent. Mr. Orbison declared a quorum. Mr. Paul listened to the meeting via speakerphone, but was unable to vote because he was not physically present.

## ITEM 2

### Announcement of Filing of Regular Meeting Notice and Posting of the Agenda in Accordance With the Open Meeting Act

Posting of Regular Meeting Notice and posting of the agenda were confirmed, in accordance with the Open Meetings Act.

## ITEM 3

### Approval of Minutes of the May 16, 2006 Regular Meeting

Mr. Charlton made a motion to approve the minutes of the May 16, 2006 Regular Meeting. Mr. Riley seconded the motion.

Roll Call: Mr. Orbison, Mr. Riley, and Mr. Charlton voted to approve the minutes. Mr. Norick abstained. The motion was carried and the minutes approved.

## ITEM 4

### Executive Director's Report

Mr. Scroggins distributed copies of a document recapping financial data for FY 2006 (copy attached). He reported sales revenue of \$204,438,680, application/bond fee revenue of \$227,296 and other revenue of \$350,401 for a total of \$205,438,680. He advised the Board that the application/bond fees go into the Fidelity Revolving Fund and could be utilized to pay investigative costs to OSBI and the State Auditor and Inspector. In FY 06, \$34,000 was spent from the fund for that purpose. He stated that the funds could also be used to cover collection costs when the need arises. He added that during FY06, twenty (20) collection issues had been sent to the AG's office, seven (7) of which were ultimately paid by the retailer and thirteen (13) still in some stage of collection. If the money cannot be collected, the revolving fund will be used to reimburse OLC. The total transfer made to education for FY06 was \$65,726,613. Mr.

Scroggins explained that following the audit, an additional transfer of \$454,825 would be made to education, and would appear on the FY 2007 financial reports.

Mr. Scroggins reported that a total of \$109,593,306 in prizes had been paid in FY06. He reported there was \$44,600 in unclaimed prizes; \$12,924,387 paid in commissions to retailers; \$259,349 in State and \$1,625,093 in Federal taxes withheld; \$27,845.71 withheld in nineteen (19) child support cases; and \$7,604,614 spent for operating expenses. Mr. Scroggins reported that \$44,600 of unclaimed prize money had been transferred to the Department of Mental Health for the treatment of problem gambling, and some discussion was held about the status of outstanding unclaimed prize money. Mr. Scroggins explained that in accordance with the Act, unclaimed prizes up to \$500,000 per year will be transferred to the Department of Mental Health. Mr. Norick asked what would be done with unclaimed prize money in excess of \$500,000, and Mr. Scroggins replied that it would be used for additional prizes, games and promotions to benefit lottery players. Mr. Norick asked if that was what would have happened if the \$101 million dollar PowerBall prize had not been claimed, and Mr. Scroggins replied that the cash amount of that prize (approximately \$46 million) would have been split among the thirty-one (31) PowerBall jurisdictions on a pro-rata basis according to sales. If the prize had gone unclaimed, Oklahoma would have received approximately \$4.5 million.

Mr. Scroggins commented that the Lottery Commission had been given a very aggressive sales goal of \$413 million for FY 07, with a net profit goal of \$123 million. He stated that OLC would do its best to achieve those goals.

Mr. Scroggins reported that there are currently 2,222 lottery sales locations, with eight more pending installation. Mr. Orbison asked if the number of retailers was increasing or stabilizing, and Mr. Scroggins replied that although around 367 retailers had stopped selling lottery tickets for various reasons, other retailers had been signing up and the overall total had actually increased slightly. Mr. Orbison asked if retailers were being aggressively recruited, and Mr. Scroggins stated that steps are being taken to analyze where and what type of retailers are needed. He explained that SGI and OLC personnel are also developing plans to assist marginal retailers to improve sales. He added that retailers who are unable to achieve minimum sales goals will have their lottery contract terminated. Mr. Charlton asked Mr. Scroggins how Oklahoma was doing with lottery sales in bowling alleys. He noted that the Missouri lottery seemed to have good success in selling lottery products in bowling alleys. Mr. Scroggins replied that Missouri had particular success with selling pull-tabs (not available in Oklahoma) in bowling alleys. He stated that in Oklahoma it would probably be desirable to have a PAT (player activated terminal) available in bowling alleys, along with sales at the counter.

Mr. Scroggins distributed a list of remaining unclaimed prizes (copy attached) and then briefly commented on the information.

Mr. Scroggins reported Trucks and Bucks instant sales of \$2.2 million. He stated that as far as the entries for the drawing for the truck at the State Fair on September 16th, there has been approximately a 52% redemption rate on available entries. He also reported that, unfortunately, no truck had been won yet, but that ticket sales would likely increase once one of the trucks was won. Mr. Scroggins handed out information describing a new online Trucks and Bucks promotion which allows players who purchase \$5 in PowerPlay (a \$10 total purchase) to enter a drawing for prize packs and an additional Ford F-150 truck. He stated that there were five (5) trucks available on instant games, and two trucks available through drawings, for a total of seven (7) trucks.

Mr. Scroggins updated Board members on the new Oklahoma Cash 5 game. He announced that the sales launch had been revised from August 20<sup>th</sup> to September 1<sup>st</sup>, with the first drawing on September 5<sup>th</sup>.

Mr. Scroggins described a new television advertising campaign featuring actual Oklahoma lottery winners.

Mr. Scroggins reported that 132 PATs are operating throughout Oklahoma, with average weekly sales of \$628 per machine, although some machines averaged quite a bit higher. Mr.

Charlton asked how sales from PATs compared with counter sales. Mr. Scroggins replied that generally counter sales are higher, and that the experience of other state lotteries indicates that it is best to require retailers to continue to sell at the counter even after a PAT has been installed in order to avoid a drop-off in sales. He also stated that OLC staff members are currently involved in special PAT promotions statewide, encouraging and educating players on the use of the PAT machines.

Mr. Scroggins reported that new, automatically updated PowerBall jackpot signs have been deployed to the field. He stated that there have been some problems with the signs overheating, and that the signs were being retrofitted with a change to help them better withstand the high temperatures in Oklahoma. Mr. Orbison asked how the signs received updates, and Mr. Scroggins explained that they received updates through the lottery terminal. He added that the PowerBall jackpot billboard signs on the highway are updated via satellite. Mr. Scroggins commented that in the past, jackpot signs only accommodated two figures, so when the jackpot got up to \$100 million, numbers had to be hung manually. Mr. Orbison asked what the current jackpot record was, and Mr. Scroggins replied it was the \$357 million dollar prize won this past February.

Mr. Scroggins distributed a list of Super Retailer (retailers authorized to cash prizes of up to \$5,000) and stated that this would be a great convenience for players. He added that so far Super Retailers have paid out about \$51,000 in prizes.

Mr. Scroggins reported that OLC is developing an access-controlled website for retailers where they will be able to see the details of their individual sales and billing information. He stated this would be especially useful for larger corporate accounts with multiple locations.

Mr. Scroggins distributed a list of the ten newly-appointed members of the Retailer Advisory Board (five for two-year terms and five for one-year terms). He stated that he felt there was a very good mix of retail stores and geographic locations. He advised that the next step will be to contact the members to figure out a date and location for the first meeting. He also asked the Board to let him know if any of them would like to be present for the meeting. Mr. Orbison expressed concern that the lottery legislation did not allow any expense reimbursements to members of the Retailer Board. Mr. Scroggins agreed and stated he thought it was just an oversight in the Act that might need to be addressed in the next legislative session.

Mr. Scroggins updated the Board on minority business outreach. He stated that in July he sent a couple of staff members to attend the Oklahoma Minority Supplier Development Council's 28<sup>th</sup> Business Conference in Tulsa, where they picked up some good contacts. Mr. Scroggins explained that he had struggled with trying to find a method to provide training for minority retailers and suppliers. He stated that he met with a Jason Smedley and another representative of the Oklahoma Department of Career and Technology Education (CareerTech) in Stillwater, and discovered that they have 29 technology centers on 56 campuses around the State that provide workshops for minority and other businesses. Mr. Scroggins stated that rather than "reinventing the wheel," OLC could utilize CareerTech's services to provide training and outreach to minority businesses who wish to become lottery retailers. CareerTech also has a bid assistance network which works with businesses to help them bid on State contracts. Mr. Scroggins stated that both OLC and Scientific Games could take advantage of the CareerTech programs for minority outreach. Mr. Smedley had also indicated that CareerTech could put information regarding procurement contracts out on their network to increase awareness of the availability of these contracts.

Mr. Scroggins stated that it was difficult to estimate the current number of minority-owned lottery retailers, as more than half of the applicants had chosen to leave the minority information form blank. He explained that OLC can request the information but cannot require it.

Mr. Scroggins also reported that 26% of Scientific Games' and 15% of OLC's current staff are members of minority groups. Mr. Charlton asked why the percentage of minority

employees was less at OLC than at Scientific Games. Mr. Scroggins replied that when OLC jobs have been posted, it has been relatively rare to receive applications from members of minority groups. Ms. Tudor mentioned that they had the same problem at the AG's Office. Mr. Scroggins stated that minority applicants are always given an interview so they can have the opportunity to compete for the jobs. He stated that jobs are advertised in the newspaper, as well as posted on the State employment website and the OLC website. Mr. Charlton asked if ads were placed in African-American newspapers and Mr. Scroggins replied that he was not sure but would find out. Mr. Scroggins explained that OLC HR is handled through the Office of State Finance, and stated that he would advise them to place the ads in African-American newspapers, if they were not doing so already. Mr. Orbison asked about Scientific Games' experience in receiving minority applications, and Mr. Scroggins replied that he was not sure, but thought they might receive more applications due to the types of jobs they had available.

#### **ITEM 5**

##### **Presentation of Financial Report (unaudited) and Status of Internal Controls (Mr. Riley)**

Mr. Riley advised the Board that the development and implementation of internal controls had been completed and would no longer require inclusion as an agenda item for Board meetings.

Mr. Riley stated that the annual audit of Scientific Games was nearly finished, and that a full audit report would probably be completed and available at the September or October Board meeting. He explained that the quarterly report would normally be completed by now, but since the last quarter was also the conclusion of the fiscal year, he would wait to present the quarterly report until the annual audit was also completed. He added that OLC had met its FY 06 goals for revenue and transfers to education.

#### **ITEM 6**

##### **Report of Audit and Finance Committee (Mr. Paul)**

Because the Audit and Finance committee had not met since the last board meeting, there was no report from the committee. Mr. Redburn stated that the next committee meeting was scheduled for September 19, 2006, prior to the next regular Board meeting.

Mr. Charlton asked Mr. Scroggins if the predicted summer sales dip had occurred, and Mr. Scroggins replied that it had, not only in Oklahoma but in all lottery states. This is demonstrated by the fact that even with declining sales, Oklahoma continues to rank in the top four, five or six for Powerball sales when compared to other states with much larger populations. Mr. Scroggins added that the high cost of gasoline has also hurt lottery sales, and it is uncertain how much that will continue to effect lottery sales in the future.

**(Items 7 and 8 were considered in reverse order)**

#### **ITEM 7**

##### **Discussion and Possible Action on Submitting Proposed Permanent Rules Changes for Public Review**

Mr. Scroggins distributed copies of the Oklahoma Lottery Permanent Rules and an outline of proposed changes.

The first proposed change was to 429:10-1-3(b) Retailer Compensation. The suggested change authorizes a \$10 handling fee for super retailers who complete the paperwork for prize over \$5,000 and forward it to OLC for payment. Mr. Orbison asked how the figure of \$10 was chosen, and Mr. Scroggins stated it was just an arbitrary amount which seemed agreeable to the Super Retailer (Homeland) and to OLC.

The second proposed change would delete the current language regarding pawnshops, payday lenders, etc., and replace it with the exact language as contained in SB 1089.

The third proposed change corrects the definition of the accounting period from “Sunday at 12:00 midnight through the following Sunday at 12:00 midnight” to read “from Saturday at 12:00 midnight through the following Saturday at 11:59:59 p.m.,” to coincide with the software accounting cycle.

The fourth proposed change deals with pack activations and billing. Under current rules, the retailer is billed for a ticket pack when 80% of the low-tier prizes have been paid out, or 45 days from pack activation, whichever occurs first. The proposed change would provide that in the event a retailer concurrently activates two or more instant game packs from the same pack, the first pack activated would be billed regardless of the number of low-tier prizes paid, except in situations where the retailer has two or more selling locations within the same retail business. The change would discourage retailers from activating additional packs in order to delay billing and would also provide for better security. Mr. Orbison asked for some clarification on this problem, and Mr. Scroggins explained that some retailers were opening multiple packs in order to avoid triggering an invoice on packs where 80% of the low-tier prizes were paid. Having multiple open packs in a store also increases the risk of theft. Mr. Orbison asked if this proposed change had been submitted for review by the AG’s office, and Mr. Scroggins replied that it was and that in addition, all proposed changes would be subject to review in a public hearing and approval by the Legislature and the Governor. Mr. Norick asked if this change would be submitted to the Retailer Advisory Board for review. Mr. Scroggins replied that it was not required, but would probably be a good idea. Mr. Norick asked if the implementation of the change could not occur until the entire public review and Legislative process was completed, and Mr. Scroggins replied that was correct. However, he stated that OLC would talk to retailers and discourage the practice in the meantime.

The fifth proposed change specifies a time certain (within 45 days of the expiration date of the game’s prize claim period) for issuing a report for instant games. It also specifies the report will be posted on the OLC website.

The sixth proposed change is the same as the fifth, but pertains to on-line games rather than instant games.

Mr. Charlton made a motion to authorize Mr. Scroggins to move forward with the process of submitting the proposed Rules changes for public review. Mr. Norick seconded the motion. Roll Call: Mr. Orbison, Mr. Norick, Mr. Riley, and Mr. Charlton voted to approve the motion. The motion was carried.

## **ITEM 8**

### **Discussion and Possible Action on the Extension of the Legal Services Contract.**

Mr. Scroggins distributed copies of a memo from Mr. Redburn discussing renewal of the agreement for outside legal services with Andrews Davis. Andrews Davis was previously selected as outside legal counsel in the event the AG’s office could not or would not serve as legal counsel on an OLC issue.

The memo also contained an e-mail from Mr. Joe Rockett of Andrews Davis describing some changes in legal staffing at the firm and requesting an increase for the hourly rate of three of the attorneys. Mr. Scroggins pointed out that although the proposed rates are higher than the original negotiated rate of (\$150 per hour, which is 75% of normal rate versus \$200-\$210 per hour, which is 90% of normal rate), they were still less than the standard rates for these attorneys. Mr. Scroggins stated that according to Gay Tudor of the Attorney General’s office, this is a personal services contract that can be extended with the change in terms, should the Board wish to do so. Mr. Scroggins recommended that the Board approve the contract extension with the change in terms, and that the necessary paperwork be filed with the AG’s office and DCS so that everything would be in place should the need for services arise.

Mr. Charlton asked the reason for the increase in rates for three of the attorneys on the contract and Mr. Rockett responded that it was simply a matter of rates going up and the desire to compensate the firm's attorneys at a figure that was a little closer to current market rates. Mr. Norick asked how much the Board had used the Andrews Davis contract, and Mr. Scroggins replied that, to date, it had not been used at all. Mr. Orbison asked if there were more than three attorneys authorized for services under the contract, and Mr. Rockett replied that there were a total of thirteen, but they were only asking for a rate increase for three of them. Mr. Rockett added that he had been unable to confirm renewal of the contract with the out-of-state agency they partnered with on the OLC contract, but that he would do so and anticipated there would not be a problem. Mr. Scroggins added that even if the out-of-state firm did not wish to extend the contract, he could not imagine an issue arising that would be so complex that the Attorney General's Office and/or the Andrews Davis firm could not handle it. Mr. Orbison stated that there had been very good participation in the initial request for applicants, and that the selection committee had felt confident that Andrews Davis would provide excellent representation, should the need arise.

Mr. Norick made a motion to extend the legal services contract with Andrews Davis with the requested rate changes. Mr. Charlton seconded the motion. Roll Call: Mr. Orbison, Mr. Norick, Mr. Riley, and Mr. Charlton voted to approve the motion. The motion was carried.

#### **ITEM 9**

##### **New Business**

Mr. Riley asked if Mr. Scroggins needed board authorization to pursue minority business outreach through CareerTech. Mr. Scroggins stated he would prepare more information and details for the Board and would place this item on the September agenda for possible Board action.

#### **ITEM 10**

##### **Adjournment**

The next regular meeting of the Board will be on Tuesday, September 19<sup>th</sup> at 1:30 p.m. at the Lottery Commission office. Mr. Paul announced that there would be a meeting of the Audit and Finance Committee at 11 a.m. on September 19<sup>th</sup>, also at the lottery office.

Mr. Norick made a motion to adjourn the meeting. Mr. Charlton seconded the motion. Roll Call: Mr. Orbison, Mr. Norick, Mr. Riley, and Mr. Charlton voted to approve the motion. The motion was carried and the meeting adjourned.

Submitted by:

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James Orbison, Chairman

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George Charlton, Acting Secretary