Meeting Minutes
Executive Committee of the
South Carolina Education Lottery Board of Commissioners
April 11, 2014
3 P.M.

The Executive Committee of the South Carolina Education Lottery Board of Commissioners held a teleconference meeting on Friday, April 11, 2014, at 3 p.m. originating from Room #407, 1333 Main Street, Columbia, South Carolina.

The following committee members participated:

Tim Madden, Chairman
Dr. Edward Keith, Vice Chairman
Nancy Cannon, Treasurer
Sam Litchfield, Secretary
Peter Bristow, At-Large

Participating from the Legal Committee:

Karen Ballentine
Keith Munson

The Chairman called the meeting to order.

The Chairman asked Hogan Brown, Director of Legal Services, to brief the Committee on a lawsuit, John Doe v. South Carolina Lottery Commission, filed in Horry County on April 4, 2014, and served on the Commission on April 11, 2014. Mr. Brown reported that the suit was filed in reaction to a recent Freedom of Information Act (FOIA) request for information relating to prize winners of a million dollars or more.

The Chairman asked Mr. Brown if he intended to provide legal advice or discuss other matters related to the pending law suit or potential claims covered by the attorney-client privilege. Mr. Brown responded affirmatively and stated that presenting legal advice and the discussion of legal strategies relating to pending or potential claims and other matters covered by attorney-client privilege in Executive Session is allowed under § 30-4-70(a)(2) of the South Carolina Freedom of Information Act. The Chairman then entertained a motion for Executive Session.

Executive Session

Commissioner Cannon moved to go into Executive Session as authorized in § 30-4-70(a)(2), and to include members of the Legal Committee in the Executive Session, for the specific purpose of receiving legal advice where the legal advice relates to a pending,

threatened, or potential claim against SCEL and to receive information or other matters covered by the attorney-client privilege. Commissioner Edward Keith seconded the motion, which was unanimously adopted.

Upon adoption of the motion, as provided in § 30-4-70(a)(2), Chairman Madden announced the specific purpose of the Executive Session as referenced in the above motion and asked others in attendance to exit the meeting.

Return to Open Session

Upon conclusion of the executive session, the Chairman confirmed no action was taken during the executive session and no business other than that which was authorized by the motion was discussed.

The Chairman asked staff to explain SCEL's *Freedom of Information Act Policy on Disclosure of a Winner's Information* (Winner's Information Policy) adopted by the Board of Commissioners in 2003. SCEL notifies each affected winner of a pending request and allows each winner the opportunity (fifteen business days) to seek court relief if he or she does not want some or all of the requested information released. Unless a suit is filed, the information which is appropriate for release under FOIA is provided to the requestor.

For the pending request which resulted in John Doe v. South Carolina Lottery Commission, SCEL experienced an unusually strong negative reaction after the winners were notified. The number of calls and the concerns expressed over privacy and safety were greater than the last time similar information was requested. Several attorneys called to inquire about filing a lawsuit and to express concern over their client bearing the costs associated with the filing. Other winners asked if they could be put on "a list" as wishing to not have their information disclosed. The concerns over the current FOIA request may be heightened by the security breach at the S.C. Dept. of Revenue, the recent security breaches at major retailers, and other instances when similar information was hacked or disseminated via the Internet. The callers were particularly concerned that the current request asks for a copy of the winner's driver's license, which are not public records. In addition to the pending lawsuit, staff believes two or three more lawsuits may be filed.

Given this background, staff asked the Committee for guidance as to whether it should proceed with the SCEL FOIA policy or whether the pending lawsuit and player feedback warrant a different approach.

Motions Adopted

Commissioner Cannon moved to suspend the Winner's Information Policy adopted by the Board on February 10, 2003, and authorize the Executive Director to determine the appropriate response(s) to pending or future requests for information made pursuant to

the FOIA. Commissioner Edward Keith seconded the motion. The motion was unanimously adopted.[1]

Commissioner Cannon moved to designate the Chairman (or the Executive Director in his absence) to act with full authority and on behalf of the Board as needed regarding decisions concerning John Doe v. South Carolina Lottery Commission, the defense or initiation of any lawsuits related to FOIA, and to determine when meetings of the Executive Committee, Legal Committee, and/or the entire Board would be helpful or necessary. Commissioner Bristow seconded the motion. The motion was unanimously adopted.

Commissioner Edward Keith moved to empower the Executive Director to retain counsel for the pending lawsuit, any other potential litigation, and to manage any and all litigation on a day-to-day basis. Commissioner Cannon seconded the motion. The motion was unanimously adopted.

Other Business

There being no further business, the meeting of the Executive Committee was adjourned.

/s/	April 24, 2014
Tim Madden, Chairman	Date

As required by Section 30-4-80, notification for this meeting was posted at SCEL headquarters, 1333 Main Street in Columbia. As provided in the Board Bylaws, the meeting notice and agenda were also posted on the SCEL website, sceducationlottery.com, and sent via facsimile transmission pursuant to requests made by media outlets and other organizations. These notifications included the time, date, place, and agenda of the meeting.

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[1] Section 3.A. of the Commission Bylaws provides in pertinent part:
"Standing committees may address any item referred to it by the Commission or address any matter upon its own initiative that may reasonably relate to its title and subject matter generally reviewed by that standing committee through custom and practice. If needed, between meetings of the Commission, within this scope of authority, a Committee may act on behalf of the Commission."