CAUSE NO. D-1-GN-14-005114

§

§

JAMES STEELE, et al., *Plaintiffs* VS. GTECH CORPORATION, *Defendant* IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

201ST JUDICIAL DISTRICT

GTECH'S FIRST AMENDED PLEA TO THE JURISDICTION

GTECH Corporation ("GTECH") files this First Amended Plea to the Jurisdiction against Plaintiffs ("Plaintiffs") because derivative governmental immunity bars Plaintiffs' claims against GTECH.¹

Pursuant to statute, the Texas Lottery Commission ("TLC"), owns, designs, and sells a large variety of scratch-off tickets through its 17,000 retailers across Texas. Plaintiffs sue GTECH asserting claims based on their personal interpretation of the design of the Fun 5's scratch-off tickets they allegedly purchased from the TLC.

It is undisputed (and a matter of statutory law) that the TLC, *not* GTECH, controlled the content, design, and sale of all Fun 5's tickets. Pursuant to a governmental contract between the TLC and GTECH, GTECH is the operator of the Texas Lottery and functions on behalf of and at the direction of the TLC.

Plaintiffs' lawsuit should be dismissed because their claims are based on decisions, directives, and instructions attributable to an entity with governmental immunity, the TLC. GTECH is protected by derivative immunity because it merely followed the TLC's directions.

¹ Because of the variety of claims asserted by the various Intervenors, GTECH will address Intervenors' claims in separate pleas or motions.

On December 15, 2015, the 160th District Court in Dallas County granted GTECH's First

Amended Plea to the Jurisdiction on identical Fun 5's facts and legal theories that have been asserted before this Court.² That court got it right.

Plaintiffs' contentions in paragraph 121 of their Third Amended Petition succinctly summarize their allegations:

"Defendant GTECH, in combination with the TLC, agreed to print misleading and deceptive instructions on Fun 5's tickets, to distribute the misleading and deceptive tickets for sale to lottery players in Texas, and to use GTECH's computer system to validate tickets as non-winners when the clear language of the ticket represented that they should have been validated as winning tickets."

In support of its First Amended Plea to the Jurisdiction, GTECH relies on the attached

evidence and Plaintiffs' own judicial admissions:

 Exhibit B: Affidavit of Walter Gaddy of GTECH; Exhibit C: Transcript Excerpts from the Deposition of Dale Bowersock of the TLC: Exhibit D: Transcript Excerpts from the Deposition of Gary Grief of the TLC; and Exhibit E: Order Granting GTECH's First Amended Plea to the Jurisdiction. 	Exhibit A:	Affidavit of Kenneth E. Broughton;
Exhibit D: Transcript Excerpts from the Deposition of Gary Grief of the TLC; and	Exhibit B:	Affidavit of Walter Gaddy of GTECH;
	Exhibit C:	Transcript Excerpts from the Deposition of Dale Bowersock of the TLC;
Exhibit E: Order Granting GTECH's First Amended Plea to the Jurisdiction.	Exhibit D:	Transcript Excerpts from the Deposition of Gary Grief of the TLC; and
	Exhibit E:	Order Granting GTECH's First Amended Plea to the Jurisdiction.

I. Overview - The TLC Authored and Determined the Final Design

1. The TLC, as mandated by the Texas Legislature and Texas statute, owns and

operates the Texas Lottery, including scratch-off ticket games.³

2. Since 1991, the TLC has been the sole state government agency with the exclusive power to develop, market, and sell lottery games in the State of Texas.⁴ The TLC hired

 $^{^{2}}$ A true and correct copy of the Order Granting GTECH's First Amended Plea to the Jurisdiction is attached as **Exhibit E.**

 $^{{}^{3}}$ Ex. B, ¶ 4.

⁴ Ex. B, \P 6.

GTECH to operate the Texas Lottery on its behalf and subject to its direction, control and supervision.⁵

3. By statute, the TLC is vested with *exclusive* authority to: (1) prescribe the form of tickets and (2) determine which tickets are winning tickets.⁶

4. The TLC has a large, experienced and sophisticated staff that selects and designs which scratch-off tickets games the TLC will sell.⁷

5. The TLC's staff has significant internal expertise in the design of scratch-off games and closely reviews and changes the designs and wording of the games submitted to the TLC.8

6. The TLC has its own stylistic and design preferences for its scratch-off ticket games.⁹ Specifically, the TLC likes to change, customize, and incorporate its design preferences into scratch-off games proposed to it.¹⁰

7. Scratch-off ticket games are offered at different price amounts from \$1 to \$50 and offer a wide variety of styles, designs, themes, and features.¹¹

8. There are three (3) outside vendors which propose potential scratch-off games to the TLC. GTECH is one of those three (3) different vendors.¹²

9. The TLC reviews the different games proposed by these three (3) vendors and then chooses which scratch-off games it will sell.¹³

- ⁸ Ex. B, ¶ 21. ⁹ Ex. B, ¶ 22.
- 10 *Id*.

- ¹¹ Ex. B, ¶19. ¹² Ex. B, ¶ 23. ¹³ Ex. B, ¶ 24.

⁵ *Id*.

⁶ Ex. B, ¶ 7.

⁷ Ex. B, ¶ 20.

10. Once it decides on a particular scratch-off game, the TLC staff decides what the specific design and wording will be for each of those scratch-off games.¹⁴

11. Of note, GTECH's name does not appear on the scratch-off tickets.¹⁵

12. GTECH does not contract with ticket retailers.¹⁶ GTECH has never had any contractual, licensing, employment or agency relationship with any of the TLC's retailers.¹⁷ It is the 17,000 TLC retailers who contract directly with the TLC and which sell scratch-off games issued by the TLC, including the Fun 5's game.¹⁸

13. GTECH had no contractual or other relationship with any Plaintiffs.¹⁹

- 14. GTECH had no communication with any Plaintiffs about the Fun 5's game.²⁰
- 15. GTECH made no sale to Plaintiffs.²¹
- 16. GTECH made no promise to Plaintiffs.²²
- 17. GTECH made no warranty or guarantee to Plaintiffs.²³
- 18. GTECH made no statement or representation to Plaintiffs.²⁴

19. GTECH was not a party to any relationship, contractual or otherwise, that may have existed between the TLC and Plaintiffs.²⁵

20. All determinations, rules, regulations, procedures, and operations regarding the Fun 5's tickets and cash awards were ultimately decided by and implemented at the instruction of the TLC.²⁶

 ${}^{14} \text{ Ex. B, } \P \text{ 25.} \\ {}^{15} \text{ Ex. B, } \P \text{ 9.} \\ {}^{16} \text{ Ex. B, } \P \text{ 8.} \\ {}^{17} \text{ Id.} \\ {}^{18} \text{ Id.} \\ {}^{19} \text{ Ex. B, } \P \text{ 10.} \\ {}^{20} \text{ Ex. B, } \P \text{ 10.} \\ {}^{21} \text{ Ex. B, } \P \text{ 12.} \\ {}^{22} \text{ Ex. B, } \P \text{ 12.} \\ {}^{23} \text{ Ex. B, } \P \text{ 12.} \\ {}^{24} \text{ Ex. B, } \P \P \text{ 11.} \text{ 12.} \text{ 13.} \\ {}^{25} \text{ Ex. B, } \P \text{ 14.} \\ \end{array}$

GTECH had no ownership interest in the Fun 5's scratch-off game.²⁷ 21.

22. GTECH had no role in drafting, commenting upon, reviewing or even seeing the official "Rules" for the Fun 5's game that were published in the Texas Registry.²⁸ GTECH was not provided with said "Rules" before or after they were printed in the Texas Registry.²⁹

The TLC began selling the Fun 5's tickets through its retailers on September 2, 23. 2014.³⁰ On October 20, 2014, the TLC closed the Fun 5's game.³¹ GTECH had no ability or standing to close the Fun 5's game because that game was owned by the TLC and it decides when to close a game.³²

Here, Plaintiffs claim the several changes directed by the TLC to GTECH's 24. original proposed "draft working papers" for the Fun 5's game made the tickets misleading and fraudulent.³³ However, GTECH did not make those design decisions. The TLC made those design decisions.

II. Undisputed Material Facts

25. The TLC "has broad authority and shall exercise strict control and close supervision of all [Texas Lottery] activities authorized and conducted in this state" TEX. GOV'T CODE § 467.101(a). Specifically, "[t]he executive director [of the Lottery Commission] shall prescribe the form of tickets." TEX. GOV'T CODE § 466.251.

26. The TLC, pursuant to statute, owns, designs and sells a large variety of scratch-off tickets through its 17,000 retailers across Texas. See TEX. GOV'T CODE §§ 466.251, 467.101(a).

- ²⁸ Ex. B, ¶ 17.
- ²⁹ Id.

 32 *Id*.

²⁶ Ex. B, ¶ 15. ²⁷ Ex. B, ¶ 16.

³⁰ Ex. B, ¶ 18. 31 *Id*.

³³ Pls' 3d Am. Pet., ¶¶ 31-33.

- The TLC owns the scratch-off games, not GTECH.³⁴ 27.
- The TLC decides the final design of the scratch-off tickets, not GTECH.³⁵ 28.
- The TLC sells the scratch-off tickets, not GTECH.³⁶ 29.
- GTECH's name does not appear on the scratch-off tickets.³⁷ 30.

31. The TLC and GTECH are the only parties to the "Contract for Instant Ticket Manufacturing and Services" (the "Printing Contract").³⁸ A true and correct copy is attached as Exhibit B-1.

32. GTECH had no authority or discretion to fail to perform its contractual obligations to the TLC, which included: (1) making changes to the design and wording of scratch-off games as instructed by the TLC; (2) receiving orders from the TLC's retailers for replacement tickets, delivering those tickets to retailers; (3) activating packets of tickets for retailers; and (4) computer validation of tickets.³⁹

33. Pursuant to Paragraph 7.3.3 of the Printing Contract, GTECH was required to prepare what are called "draft working papers."⁴⁰ "Draft working papers" are the initial specification of the wording, artwork, color, prize structure, and design of a scratch-off game.⁴¹

34. After GTECH prepares the initial "draft working papers," it sends them to the TLC staff for its review and changes to the design and wording.⁴²

- ³⁷ Ex. B, ¶ 9.
 ³⁸ Ex. B, ¶ 29.
 ³⁹ Ex. B, ¶ 30.

 ³⁴ Ex. C. ¶¶ 3, 11.
 ³⁵ Ex. B, ¶ 9.
 ³⁶ Ex. B. ¶¶ 12, 18.

⁴⁰ Ex. B, ¶ 31; *see also* Ex. B-1 at ¶ 7.3.3. ⁴¹ Ex. B, \P 31.

⁴² Ex. B, ¶ 32.

35. Often the TLC staff makes several rounds of changes to the ticket design and wording which it accomplishes by marking up the "draft working papers".⁴³ The TLC then emails its design changes back to GTECH.⁴⁴

36. Once the TLC decides on its final design and wording specifications for a scratchoff game, the finalized "working papers" then become the basis for the formal "order" by the TLC of a specific scratch-off game.⁴⁵

37. On March 13, 2013, a prototype of what became known as the "Fun 5's" game was proposed by GTECH to the TLC as a potential scratch-off game.⁴⁶

38. Similar types of Fun 5's games had previously been sold in a few other states without consumer complaints. GTECH proposed to the TLC essentially the same design previously used in Nebraska.47

Copy of Nebraska Fun 5s Ticket on following page.

⁴³ Ex. B, ¶ 33.
⁴⁴ Ex. B, ¶ 33.
⁴⁵ Ex. B, ¶ 33.
⁴⁵ Ex. B, ¶ 34.
⁴⁶ Ex. B, ¶ 26; Pls' 3d Am. Pet., ¶ 26.
⁴⁷ Ex. B, ¶ 27; Pls' 3d Am. Pet., ¶¶ 26 and 29.



Nebraska Lottery Fun 5s Ticket (Exh. A-1)

39. The TLC ultimately selected the Fun 5's game concept as one of the scratch-off games it intended to sell in Texas.⁴⁸

As required by Paragraph 7.3.1 of the Printing Contract, GTECH sent the initial 40. "draft working papers" for the proposed Fun 5's game to the TLC on April 16, 2014.⁴⁹

41. The initial "draft working papers" included a Fun 5's game with five (5) different games on the face of one scratch-off ticket.⁵⁰ For Game 5, the proposed design included a tic-tactoe style of game, in which a player would need to get "three (3) 'BILL' Play Symbols in a single row, column, or diagonal line" to win. Game 5 also included a potential "Bonus Box" multiplier, wherein a player that won the tic-tac-toe game could win five times the associated prize if the "5" Play Symbol appeared in the Bonus Box.⁵¹

The April 16, 2014 initial "draft working papers" for Game 5 of the Fun 5's game 42. provided that the '5' Play Symbol will only appear in the Bonus Box when the player has won by getting three (3) 'BILL' Play Symbols in a single row, column, or diagonal line.⁵² Said differently, the "5" Play Symbol would not appear in the Bonus Box if the player did not win the tic-tac-toe game.⁵³ A true and correct copy is attached as **Exhibit B-2**.

43. However, pursuant to Paragraph 7.3.3 of its Printing Contract with GTECH, the TLC staff directed GTECH to change the design and wording originally proposed by GTECH by making changes to Game 5's instructions.⁵⁴

 ⁴⁸ Ex. B, ¶ 28. Pls' 3d Am. Pet., ¶ 27.
 ⁴⁹ See Pls' 3d Am. Pet. ¶ 29; Ex. B, ¶ 35.
 ⁵⁰ Ex. B, ¶ 36.

⁵¹ Ex. B, ¶ 36.

⁵² Ex. B, ¶ 37.

 $^{^{53}}$ Ex. B, ¶ 37.

⁵⁴ See Ex. B, ¶ 11.

7.3.3 Upon review of the draft working papers, the Texas Lottery will provide requested changes to the Successful Proposer. The Successful Proposer must provide final working papers to the Texas Lottery within two (2) business days of receipt of the requested changes.

Paragraph 7.3.3 of TLC's Printing Contract with GTECH, Exh. B-1 at p. 5.

44. After reviewing GTECH's initial <u>April 16, 2014</u> "draft working papers", the TLC's staff emailed GTECH, on <u>April 25, 2014</u>, the first of its many design and wording changes to GTECH's original proposed design.⁵⁵ A true and correct copy is attached as **Exhibit B-3.**

45. Plaintiffs judicially admit that on <u>April 30, 2014</u>, the TLC directed GTECH to make another change to what had been proposed in the initial "draft working papers."⁵⁶ A true and correct copy is attached as **Exhibit B-4**.

46. Plaintiffs judicially admit that the TLC's staff directed GTECH to change the "Dollar Bill" symbol to a "5" symbol.⁵⁷

47. Plaintiffs judicially admit that the TLC also directed GTECH to change the "5" symbol to a Money Bag play symbol.⁵⁸

48. GTECH obeyed the TLC's various instructions.⁵⁹ These design and wording changes were decisions by the TLC, not GTECH.⁶⁰

49. Plaintiffs judicially admit that on <u>May 12, 2014</u>, the TLC's staff issued more changes to the Fun 5's game.⁶¹ A true and correct copy is attached as **Exhibit B-5**.

⁵⁵ Ex. B, ¶ 39.

⁵⁶ Pls' 3d Am. Pet., ¶ 30; Ex. B, ¶ 40.

⁵⁷ Pls' 3d Am. Pet., ¶ 30, Ex. B, ¶ 41.

 $_{58}^{58}$ Ex. B, ¶ 42.

⁵⁹ Pls' 3d Am. Pet., ¶ 31; Ex. B, ¶ 43.

⁶⁰ *Id*.

⁶¹ Ex. B, ¶ 44.

50. The TLC also directed GTECH to change the game parameters for Game 5 so that the Money Bag symbol in the Bonus Box would also appear on 25% of the non-winning tickets.⁶² Specifically, on May 12, 2014, the TLC sent GTECH handwritten instructions that "Money Bag play symbol needs to appear on non-winning tickets also."⁶³ To eliminate any doubt about its instructions, on May 14, 2014, Dale Bowersock of the TLC sent an e-mail to GTECH stating "The 'MONEY BAG' Play Symbol will appear in the 5X box in approximately 25% of the tickets with non-winning combinations in GAME 5."⁶⁴

From:	Burrola, Jessica <jessica.burrola@lottery.state.tx.us></jessica.burrola@lottery.state.tx.us>
Sent:	Monday, May 12, 2014 12:09 PM
To:	Gaddy, Walter; Whyte, Penelope
Cc:	Bowersock, Dale; Edwards, Fran; Calderon, Sylvia; Burrola, Jessica
Subject:	ADDL COMMENTS 2; GAME # 1592 Fun 5's
Attachments:	#1592 Additional Comments.pdf

3) Game #5: Game parameters #33 and #34 (see below) mention the money bag symbol as only appearing on winning tickets. This would make it an easy target for micro-scratching since only the rest of game 5 would not have to be micro-scratched to know that it is a winner. We would prefer to have the money bag symbol appear on non-winning tickets, too.

Game 5

- Non-winning combinations will contain two (2) "5" Play Symbols in at least one (1) row, column or diagonal.
- 32) Non-winning combinations will contain at least four (4) "5" Play Symbols, at least one (1) of which is in the top horizontal row.
- 33) The "MONEY BAG" Play Symbol will only appear in the 5X Box on winning tickets that win 5X the associated PRIZE.

) As dictated by the prize structure, the "MONEY BAG" Play Symbol will only appear in the 5X Box when the player has won by getting three (3) "5" Play Symbols in a single row, column, or diagonal line.

35) Winning combinations will have only one occurrence of three (3) "5" Play Symbols in any row, column, or diagonal.

play symbol needs to appear on non-winning totagets.

Excerpts from Exhibit A-2.

⁶² Ex. B, ¶ 45.

⁶³ Id.

⁶⁴ *Id.*; Pls' 3d Am. Pet., ¶ 33; Ex. A-2.

51. The TLC directed this change as a security measure to prevent "microscratching."⁶⁵ Micro-scratching consists of someone using a small sharp object to unveil a microscopic portion of the play area of the scratch-off ticket to discern whether a ticket is a winner or a non-winner in a way that is largely undetectable.⁶⁶ If the Money Bag symbol for Fun 5's only appeared on winning tickets, this might make the game an easy target for microscratching since the rest of Game 5 would not have to be micro-scratched to know that it was a winner.⁶⁷ GTECH obeyed the design instructions from the TLC's staff.⁶⁸ This change was a decision by the TLC, not GTECH.⁶⁹

52. Following the instructions of the TLC, GTECH incorporated the TLC's changes to the game's parameters and programmed its computers so that 25% of the tickets that had not won the tic-tac-toe game would reveal a Money Bag Play symbol in the 5X box.⁷⁰

From:Bowersock, DaleCole.Bowersock@lottery.state.tx.us>Sent:Wednesday, May 14, 2014 12:04 PMTo:Thurston, Laura M; Burrola, JessicaCc:Whyte, Penelope; Gaddy, Walter; Calderon, Sylvia; Edwards, FranSubject:RE; ADDL COMMENTS 2; GAME # 1592 Fun 5's

What we are looking for is a parameter which is very clearly defined, such as:

"The "MONEY BAG" Play Symbol will appear in the 5X Box in approximately 25% of the tickets with nonwinning combinations in GAME 5."

Excerpts from Exhibit A-5.

⁶⁵ Ex. B, ¶ 46.

⁶⁶ Id.

⁶⁷ Id.

⁶⁸ *Id*.

⁶⁹ *Id*.

⁷⁰ Ex. B, ¶ 47 ; *see also* Email from Dale Bowersock, Texas Lottery Commission, to Laura Thurston (May 14, 2014) , attached as **Exhibit A-3**; Emails between Laura Thurston and Dale Bowersock, Texas Lottery Commission (May 14, 2014), attached as **Exhibit A-4**; Email from Dale Bowersock, Texas Lottery Commission, to Laura Thurston (May 14, 2014) , attached as **Exhibit A-5**.

53. GTECH did not select the final wording or final parameters of the Fun 5's game which Gary Grief, the Executive Director of the TLC, signed on May 15, 2014.⁷¹ A true and correct copy is attached as **Exhibit B-6.** In these final working papers, GTECH had merely incorporated the design and word changes instructed by the TLC.⁷²

As required by the Printing Contract, GTECH printed the Fun 5's tickets with the 54. design, format, symbols and instructions ordered by the TLC.⁷³ The TLC, as the owner of that game, decided on the final form of the Fun 5's tickets.⁷⁴

GTECH had no decision making authority as to the final form of the design and 55. wording of the Fun 5's game.⁷⁵ The game was not jointly designed by GTECH and the TLC.⁷⁶ Rather, the final form of the Fun 5's ticket was the design of the TLC.⁷⁷

Pursuant to Paragraph 7.3.4, GTECH was contractually obligated to deliver Fun 56. 5's tickets to the TLC's warehouse in Texas.⁷⁸ GTECH printed the Fun 5's tickets as designed by the TLC and sent them via UPS to the TLC's 17,000 Texas retailers, as required by the Printing Contract."79

57. The TLC sold the Fun 5's game from September 2, 2014 until the TLC closed the game on October 20, 2014.⁸⁰

III. Argument & Authorities

58. Plaintiffs' lawsuit is premised on conduct – the changing of a game design – that was directed and controlled by an entity with governmental immunity, *i.e.* the TLC. The TLC

- ⁷² *Id.* ⁷³ Ex. B, ¶ 49. ⁷⁴ *Id.*
- ⁷⁵ Ex. B, ¶ 50.
- ⁷⁶ Id.
- ⁷⁷ Id.
- ⁷⁸ Ex. B, ¶ 51. ⁷⁹ Id.
- ⁸⁰ Ex. B, ¶ 52.

⁷¹ Ex. B, ¶ 48.

<u>directed</u> GTECH to include the specific wording and money bag symbol that Plaintiffs claim were misleading and fraudulent.⁸¹ The TLC <u>directed</u> GTECH to change the design of the game so that 25% of the non-winning tickets would include the Money Bag "", symbol.⁸² It is that change ordered by the TLC which Plaintiffs' allege made the Fun 5's game fraudulent and misleading.⁸³ Plaintiffs' lawsuit is thus precluded by derivative governmental immunity.

A. Plaintiffs' lawsuit should be dismissed because their claims are based on conduct attributable to an entity with governmental immunity.

59. Private companies are shielded by governmental immunity to the extent their actions were directed by a governmental entity enjoying such immunity. *See K.D.F. v. Rex*, 878 S.W.2d 589, 597 (Tex. 1994); *see also Brown & Gay Engineering, Inc. v. Olivares*, 461 S.W.3d 117, 124-127 (Tex. 2015). *Yearsley v. W.A. Ross Construction Co.*, 309 U.S. 18 (1940) (contractor <u>directed</u> by federal government to construct several dikes was immune from claims resulting from damage caused by dikes and not their manner of construction) (emphasis added).

60. In *Brown & Gay*, the Texas Supreme Court surveyed cases involving governmental immunity and government contractors. *Id.* at 124-26. For the cases in which governmental immunity was **granted**,

... the alleged cause of injury was **not** the independent action of the contractor, but the action taken by the government **through** the contractor.

Id. at 125 (emphasis added).

⁸¹ Pls' 3d Am. Pet., ¶¶ 31-33; Ex. A-5; Ex. B, ¶¶ 44-47.

⁸² Ex. A-5.

⁸³ Pls' 3d Am. Pet., ¶¶ 31-33

61. On the other hand, governmental immunity was **denied** for cases in which the plaintiffs did not complain of harm caused by [the contractor] implementing the [governmental entity's] specifications or following any specific government directions or orders. ...

Id. at 125-26 (emphasis added) (internal quotations omitted).

62. The former situation explored in *Brown & Gay* is present here, which entitles GTECH to derivative governmental immunity because the complained of design contained in the Fun 5's game was directed by the TLC and GTECH merely followed the TLC's specific directives.

i. The TLC exclusively controlled the design, content, and sales of Fun 5's tickets.

63. It is undisputed (and a matter of statutory law) that the TLC, not GTECH, owned and controlled the content and sale of all Fun 5's tickets. See TEX. GOV'T CODE §§ 466.251, 467.101(a). The TLC-not GTECH-decided on the final design and later sold the tickets to Plaintiffs.⁸⁴

64. In other words, the TLC was "The Decider" about the wording and parameters used on its games. The TLC made numerous changes and made the final determination of what words and symbols would appear on the TLC's Fun 5's game.⁸⁵ Pursuant to its contract with the TLC, GTECH proposed the initial wording and symbols.⁸⁶ The TLC, as The Decider, changed some of those words, symbols, and game parameters.⁸⁷ It is the TLC's changes that Plaintiffs contend caused the Fun 5's game to be fraudulent and misleading.⁸⁸

⁸⁴ Ex. B, ¶¶ 49 - 50. ⁸⁵ Ex. B, ¶¶ 48 - 50

⁸⁶ Ex. B, ¶ 31; Ex. B-1 at ¶ 7.3.1. ⁸⁷ Ex. B, ¶¶ 39-47.

⁸⁸ Pls' 3d Am. Pet., ¶¶ 31-33.

65. There is no doubt that the challenged conduct in this case was directed and ordered by the TLC. The design changes that are alleged to be fraudulent were not GTECH's changes. GTECH merely followed the instructions given to it by the TLC. Specifically, on May 12, 2014, the TLC, directed GTECH to change the parameters of Game 5 to provide that the winning Money Bag "" symbol in the 5X Box would be printed on both winning tickets and non-winning tickets.⁸⁹ The TLC stated it instructed this design change for security reasons to avoid micro-scratching.⁹⁰

66. Under the parameters for the game originally *proposed* by GTECH to the TLC, one hundred percent of the tickets that revealed a Money Bag ""symbol would be programmed into GTECH's computers as "winning" tickets."91

Only at the express instruction of the TLC, did GTECH change the game's 67. parameters and program its computers so that 25% percent of the tickets that had not won the tictac-toe game would reveal a Money Bag "⁵" symbol in the 5X Box.⁹²

68. Plaintiffs' theory is that GTECH should be held responsible for adhering to its contract with the TLC and for merely following that government agency's directions. Yet, this is precisely what derivative governmental immunity is intended to prevent. Brown & Gay, 461 S.W.3d at 125.

69. GTECH did not have the authority to exercise "independent discretion" in implementing the design changes issued to it by the TLC.⁹³ Plaintiffs contend it was the Money Bag symbol on non-winning tickets that caused the tickets to be fraudulent – but putting the

 ⁸⁹ Pls' 3d Am. Pet, ¶ 31Ex. B, ¶¶ 44-47; Ex. A-2.
 ⁹⁰ Pls' 3d Am. Pet, ¶ 31; *See* Ex. A-2.

⁹¹ Pls' 3d Am. Pet. at ¶ 32.

⁹² Ex. B, ¶¶ 44-47; Ex. A-2; See Pls' 3d Am. Pet. at ¶¶ 31-33.

⁹³ Ex. B, ¶ 30.

Money Bag symbol on non-winning tickets was not the independent action of GTECH.⁹⁴ Rather, it was the direction of the TLC which GTECH merely transcribed.⁹⁵ GTECH lacked independent discretion about following the design instructions for the Fun 5's tickets directed by the TLC. Instead, GTECH simply implemented the TLC's express instructions. Therefore, GTECH is entitled to derivative governmental immunity.

70. Plaintiffs have not alleged that GTECH failed to follow the TLC's instructions.

71. Plaintiffs are attempting to challenge the TLC's decisions by suing a contractor that merely carried them out. If Plaintiffs were to prevail on this theory, governmental contractors would be placed between the Scylla of breaching their contract with the governmental entity that hired them and the Charybdis of potentially unlimited liability from disgruntled third party.⁹⁶ The losers would ultimately be the citizens of Texas, who would have to pay more for governmental services.

72. Plaintiffs are attempting to challenge the TLC's decisions by suing a contractor that merely carried them out. Given Plaintiffs' judicial admissions that the challenged conduct at the center of this case was <u>directed</u> by the TLC,⁹⁷ this Court should rule that Plaintiffs' lawsuit is barred by derivative governmental immunity and should be dismissed.

ii. GTECH could not close the Fun 5's game.

73. Plaintiffs allege that after the TLC released the Fun 5's for sale that GTECH began receiving complaints.⁹⁸ Plaintiffs also complain that GTECH allegedly defrauded them by continuing "to distribute Fun 5's tickets"⁹⁹ As testified by Dale Bowersock, the TLC's

⁹⁴ Ex. B, 44-47; Pls' 3d Am. Pet., ¶¶ 83, 100, 116, and 126.

⁹⁵ Ex. B, ¶¶ 44-47; Ex. A-7.

⁹⁶ Scylla and Charybdis is an idiom from Greek mythology which means being between two dangers, choosing either of which brings harm.

⁹⁷ Pls' 3d Am. Pet., ¶¶ 31-33.

⁹⁸ Pls' 3d Am. Pet., ¶ 66.

⁹⁹ Pls' 3d Am. Pet., ¶ 77.

Instant Product Coordinator, whether to "call" or close the TLC's Fun 5's game was "not a GTECH decision."¹⁰⁰ In fact, Gary Grief, Executive Director of the TLC, had the sole authority to close the game.¹⁰¹ Until Mr. Grief decided to close the game, GTECH was contractually obligated to fill orders for the TLC's Fun 5's tickets.¹⁰²

7.3.4 The Successful Proposer must deliver tickets to the Texas Lottery's warehouse no later than the delivery date specified in the final executed working papers.

Paragraph 7.3.4 of TLC's Printing Contract with GTECH, Exh. B-1 at p. 5.

74. Because the TLC was the sole decision-maker on whether to "call" the Fun 5's game, GTECH's required distribution of the tickets to TLC retailers—pursuant to its contractual obligations to the TLC in paragraph 7.3.4 above—cannot be construed as a tortious or fraudulent act by GTECH. GTECH had no independent discretion, authority, or power to close the game and was merely <u>following</u> the TLC's <u>directions</u>.¹⁰³ Thus, GTECH is protected by derivative governmental immunity.

75. Plaintiffs cannot escape the fact that their allegations arise from conduct that the TLC directed or ordered—e.g., GTECH's following the TLC's design instructions, GTECH printing the Fun 5's tickets pursuant to the express direction and control of the TLC,¹⁰⁴ an entity with governmental immunity. When viewed in the context of *Brown & Gay*, it is clear that Plaintiffs' complaints are alleged to have been caused by GTECH implementing the TLC's specifications or from GTECH's following specific government directions or orders related to the TLC's Fun 5's tickets. *See Brown & Gay*, 461 S.W.3d at 125.

¹⁰⁰ Bowersock Depo. 158:3 – 158:20.

¹⁰¹ Bowersock Depo. 129:6 – 130:6; Grief Depo. 44:10 – 44:16; *see also* Ex. B, ¶ 18.

¹⁰² Ex. B, ¶ 30; Ex. B-1 at p.5.

¹⁰³ Ex. B, ¶ 30.

¹⁰⁴ Pls' 3d Am. Pet. at ¶¶ 31-33; Ex. B, ¶¶ 44-47.

76. Importantly, Plaintiffs have not alleged that GTECH deviated from what the TLC instructed in any way. The United States Supreme Court recently clarified when governmental contractors obtain certain immunity in connection with work which they do pursuant to their contractual undertakings with the government. *Campbell-Ewald Co. v. Gomez*, 577 U.S. ---, 136 S.Ct. 663 (2016). Critical to the determination of whether derivative governmental immunity protects the contractor, is the contractor's performance in compliance with all governmental directions. *Id.* at 673, n.7.

77. In *Gomez*, an advertising agency contracted with the United States Navy to develop and execute a multimedia recruiting campaign. *Id.* at 667. The agency proposed to the Navy a campaign involving text messages sent to young adults. *Id.* The Navy approved the agency's proposal, conditioned on sending the messages only to individuals who had "opted in" to receipt of marketing solicitations. *Id.*

78. A recipient of the Navy's recruiting text message, who had allegedly not "opted in", sued the advertising agency, alleging violations of the Telephone Consumer Protection Act ("TCPA"). *Id.* The trial court granted the advertising agency's dispositive motion, holding that the agency acquired the Navy's immunity as a contractor acting on the Navy's behalf. *Id.* at 668. However, on appeal, the Supreme Court ultimately held that the advertising agency was not protected by the Navy's governmental immunity because the contractor violated the Government's explicit instructions not to send to a recipient who had not "opted in". *Id.* at 672.

79. [G]overnmental contractors obtain certain immunity in connection with work which they do pursuant to their contractual undertakings with [the government.]" *Id.* (citing *Brady v. Roosevelt S. S. Co.*, 317 U.S. 575, 583 (1943)). When a contractor violates the

- 19 -

Government's explicit instructions, no "derivative immunity" shields the contractor from suit by persons adversely affected by the violation. *Id*.

80. However, when the contractor's work was authorized and directed by the government—and performed as the government directed—there is no liability on the contractor. *Id.* at 673.

81. Given that the challenged conduct in this case—adding Money Bag symbols to non-winning tickets—was <u>authorized</u> and <u>directed</u> by the TLC, this Court should rule that Plaintiffs' lawsuit is barred by derivative governmental immunity and be dismissed. *See id.; see also Brown & Gay*, 461 S.W.3d at 125.

IV. Prayer

GTECH Corporation respectfully requests that the Court dismiss Plaintiffs' claims, that they take nothing by reason of this suit, as well as such further and other relief, at law or in equity, to which GTECH may be justly entitled.

Respectfully submitted,

REED SMITH LLP

/s/ Kenneth E. Broughton

Kenneth E. Broughton State Bar No. 03087250 Francisco Rivero State Bar No. 24046725 Michael H. Bernick State Bar No. 24078227 Arturo Muñoz State Bar No. 24088103 811 Main Street, Suite 1700 Houston, Texas 77002-6110 Telephone: 713.469.3819 Telecopier: 713.469.3899 kbroughton@reedsmith.com frivero@reedsmith.com mbernick@reedsmith.com amunoz@reedsmith.com

ATTORNEYS FOR DEFENDANT GTECH CORPORATION

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing pleading has been served by electronic transmission on this the 2^{nd} day of February, 2016, to the following counsel of record:

Richard L. LaGarde Mary Ellis LaGarde LAGARDE LAW FIRM, P.C. 3000 Weslayan, Suite 380 Houston, Texas 77027 <u>richard@lagardelaw.com</u> mary@lagardelaw.com

Manfred Sternberg MANFRED STERNBERG & ASSOCIATES, P.C. 4550 Post Oak Place Dr., Suite 119 Houston, Texas 77027 manfred@msternberg.com

Leroy B. Scott SCOTT ESQ 3131 McKinney Ave, Ste. 600 Dallas, TX 75204 <u>lscott@scottesq.com</u>

Clinton E. Wells, Jr. McDowell Wells, L.L.P. 603 Avondale Houston, Texas 77006 <u>cew@houstontrialattorneys.com</u>

Andrew G. Khoury KHOURY LAW FIRM 2002 Judson Road, Suite 204 Longview, Texas 75606-1151 andy@khourylawfirm.com

James D. Hurst JAMES D. HURST, P.C. 1202 Sam Houston Avenue Huntsville, Texas 77340 jdhurst@sbcglobal.net Daniel H. Byrne Lessie G. Fitzpatrick FRITZ, BYRNE, HEAD & FITZPATRICK, PLLC 221 West 6th Street, Suite 960 Austin, Texas 78701 dbyrne@fbhh.com lfitzpatrick@fbhh.com

Leonard E. Cox ATTORNEY AT LAW P.O. Box 1127 Seabrook, Texas 77586 LawyerCox@LawyerCox.com

Wes Dauphinot DAUPHINOT LAW FIRM 900 West Abram Arlington, Texas 76013 wes@dauphinotlawfirm.com

William M. Pratt LAW OFFICE OF WILLIAM PRATT 3265 Lackland Road Fort Worth, Texas 76010 lawofficeoffice@yahoo.com

Jerry B. Register JERRY B. REGISTER, P.C. 1202 Sam Houston Avenue P.O. Box 1402 Huntsville, Texas 77342 jbreg@sbcglobal.net

William S. Webb KRAFT & ASSOCIATES, P.C. 2777 Stemmons Freeway, Suite 1300 Dallas, Texas 75207 swebb@kraftlaw.com John H. Read, II ATTORNEY AT LAW 1230 N. Riverfront Blvd. Dallas, Texas 75207-4013 john@readlawoffices.com

Paul T. Morin PAUL T. MORIN, P.C. 503 W. 14th Street Austin, Texas 78701 <u>PMorin@austin.rr.com</u>

Christopher S. Hamilton Andrea L. Fitzgerald STANDLY AND HAMILTON, LLP 325 N. St. Paul Street, Suite 3300 Dallas, Texas 75201 chamilton@standlyhamilton.com

Eugene W. Brees WHITEHURST, HARKNESS, BREES, CHENG, ALSAFFAR & HIGGINBOTHAM, PLLC 7500 Rialto Blvd., Bldg. Two Suite 250 Austin, Texas 78735 cbrees@nationaltriallaw.com Richard Warren Mithoff Warner V. Hocker MITHOFF LAW Penthouse, One Allen Center 500 Dallas, Suite 3450 Houston, Texas 77002 <u>rmithoff@mithofflaw.com</u> <u>whocker@mithofflaw.com</u>

Blake C. Erskine ERSKINE & MCMAHON, L.L.P. P.O. Box 3485 Longview, Texas 75606 blakee@erskine-mcmahon.com

/s/ Kenneth E. Broughton

Kenneth E. Broughton

EXHIBIT A

CAUSE NO. D-1-GN-14-005114

\$ \$ \$ \$ \$ \$

§

JAMES STEELE, et al., Plaintiffs VS. GTECH CORPORATION, Defendant IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

201ST JUDICIAL DISTRICT

AFFIDAVIT OF MICHAEL H. BERNICK

STATE OF TEXAS § SCOUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared affiant, Michael H. Bernick, whose name is subscribed hereto, and who, after being by me duly sworn on oath, stated as follows under penalty of perjury:

1. "My name is Michael H. Bernick. I am over the age of twenty-one (21) years, of sound mind, and fully competent to testify herein. I have personal knowledge of and am familiar with the facts set forth herein, and I swear that all the facts and statements contained in this Affidavit are true and correct and are based on my personal knowledge.

2. I am an attorney duly licensed to practice law in the State of Texas and have been a practicing trial lawyer in Texas and in good standing with the bar since 2011. I am an associate with the law firm of Reed Smith, LLP in Houston, Texas. My firm and I rendered legal services on behalf of Defendant GTECH Corporation. ("GTECH") in connection with the action filed by the Plaintiffs and Intervenors ("Plaintiffs") with the above-styled and numbered case number, and have done so since its inception. As such, I have personal knowledge of the procedural history of the case, including all the matters set forth below.

3. Exhibit A-1 is a true and correct copy of a document produced by GTECH in this litigation, bates-labeled GTECH-000813, which was incorporated as Exhibit 2 to the deposition of Joseph Lapinski taken in this matter.

4. Exhibit A-2 is a true and correct of a document produced by GTECH in this litigation, bates-labeled GTECH-000154-157, which was incorporated as Exhibit 29 to the Deposition of Laura Thurston taken in this matter.

5. Exhibit A-3 is a true and correct of a document produced by GTECH in this litigation, bates-labeled GTECH-000449-450, which was incorporated as Exhibit 36 to the Deposition of Laura Thurston taken in this matter.

6. Exhibit A-4 is a true and correct of a document produced by GTECH in this litigation, bates-labeled GTECH-000181-182, which was incorporated as Exhibit 37 to the Deposition of Laura Thurston taken in this matter.

7. Exhibit A-5 is a true and correct of a document produced by GTECH in this litigation, bates-labeled GTECH-000183, which was incorporated as Exhibit 97 to the Deposition of Dale Bowersock taken in this matter.

Further Affiant sayeth not.

MICHAEL H. BERNICK

SUBSCRIBED TO AND SWORN TO BEFORE ME on this day of February, 2016, to certify which witness my hand and seal of office.



Notary Public in and for The State of Texas

EXHIBIT A-1





Color laser print is intended to approximate four color process, Pantone, metallics and/or fluorescent colors and use for content. Actual printed colors may vary.

Art work may not necessarily reflect parameters or prize structures set forth in the work papers.

PULSE 1

HEAD



EXHIBIT A-2

REDACTED

Whyte, Penelope

From:	Burrola, Jessica <jessica.burrola@lottery.state.tx.us></jessica.burrola@lottery.state.tx.us>
Sent:	Monday, May 12, 2014 12:09 PM
To:	Gaddy, Walter; Whyte, Penelope
Cc:	Bowersock, Dale; Edwards, Fran; Calderon, Sylvia; Burrola, Jessica
Subject:	ADDL COMMENTS 2; GAME # 1592 Fun 5's
Attachments:	#1592 Additional Comments.pdf

Please see below and attached, for a few more comments



3) Game #5: Game parameters #33 and #34 (see below) mention the money bag symbol as only appearing on winning tickets. This would make it an easy target for micro-scratching since only the rest of game 5 would not have to be micro-scratched to know that it is a winner. We would prefer to have the money bag symbol appear on non-winning tickets, too.



Jessica Burrola | Instant Product Specialist| Texas Lottery Commission P.O. Box 16630 | Austin, TX 78761-6630 | 512-344-5125 jessica.burrola@lottery.state.tx.us



REDACTED

additional comments



CONFIDENTIAL

.

REDACTED



CONFIDENTIAL



Game 5

- 31) Non-winning combinations will contain two (2) "5" Play Symbols in at least one (1) row, column or diagonal.
- 32) Non-winning combinations will contain at least four (4) "5" Play Symbols, at least one (1) of which is in the top horizontal row.
- 33) The "MONEY BAG" Play Symbol will only appear in the 5X Box on winning tickets that win 5X the associated PRIZE.
- 34) As dictated by the prize structure, the "MONEY BAG" Play Symbol will only appear in the 5X Box when the player has won by getting three (3) "5" Play Symbols in a single row, column, or diagonal line.
- 35) Winning combinations will have only one occurrence of three (3) "5" Play Symbols in any row, column, or diagonal.

play symbol needs to appear on non-winning tichtsabe. Money Bag TEXAS LOTTERY FUN 5's **GAME 1592** VERSION 1 Page 16 APRIL 4, 2014

EXHIBIT A-3

From: Sent: To: Cc: Subject:

2

Thurston, Laura M Wednesday, May 14, 2014 11:06 AM Batchelor, Derek Whyte, Penelope FW: ADDL COMMENTS 2; GAME # 1592 Fun 5's

Importance:

High

Hello again,

Please see the client request below. I will be adding this to the Working Papers unless this requires any revising. Let me know of any comments or questions as revised Working Papers will be sent to the client today.

Thank you,

Laura Thurston

From: Bowersock, Dale [mailto:Dale.Bowersock@lottery.state.tx.us] Sent: Wednesday, May 14, 2014 12:04 PM To: Thurston, Laura M; Burrola, Jessica Cc: Whyte, Penelope; Gaddy, Walter; Calderon, Sylvia; Edwards, Fran Subject: RE: ADDL COMMENTS 2; GAME # 1592 Fun 5's

What we are looking for is a parameter which is very clearly defined, such as:

"The "MONEY BAG" Play Symbol will appear in the 5X Box in approximately of the tickets with nonwinning combinations in GAME 5."

Dale Bowersock Instant Product Coordinator Texas Lottery Commission

From: Thurston, Laura M [mailto:Laura.Thurston@GTECH.COM] Sent: Wednesday, May 14, 2014 9:02 AM To: Burrola, Jessica Cc: Whyte, Penelope; Gaddy, Walter; Calderon, Sylvia; Edwards, Fran; Bowersock, Dale Subject: RE: ADDL COMMENTS 2; GAME # 1592 Fun 5's

Good morning,

(512) 344-5166

Attached are the updated working papers for game #1592 Fun 5's. Please let me know if you have any comments or questions.

Thank you,

Laura Thurston



From: Burrola, Jessica [mailto:Jessica.Burrola@lottery.state.tx.us] Sent: Monday, May 12, 2014 12:14 PM To: Thurston, Laura M Subject: ADDL COMMENTS 2; GAME # 1592 Fun 5's Importance: High

Please see below and attached, for a few more comments

- 1) Page 9, Game #3:
- 2) Game #4:

6

3) Game #5: Game parameters #33 and #34 (see below) mention the money bag symbol as only appearing on winning tickets. This would make it an easy target for micro-scratching since only the rest of game 5 would not have to be micro-scratched to know that it is a winner. We would prefer to have the money bag symbol appear on non-winning tickets, too.



Jessica Burrola | Instant Product Specialist| Texas Lottery Commission P.O. Box 16630 | Austin, TX 78761-6630 | 512-344-5125 jessica.burrola@lottery.state.tx.us
EXHIBIT A-4

Whyte, Penelope

Thurston, Laura M Wednesday, May 14, 2014 11:25 AM Bowersock, Dale; Burrola, Jessica Whyte, Penelope; Gaddy, Walter; Calderon, Sylvia; Edwards, Fran RE: ADDL COMMENTS 2; GAME # 1592 Fun 5's Subject:

Hello,

From:

Sent:

To:

Cc:

I apologize for not addressing the parameter changes in my email with the updated Working Papers. Please see my notes regarding these parameters below:

- Parameter #33) The "MONEY BAG" Play Symbol will only appear in the 5X Box on winning tickets that win 5X the associated PRIZE.—This parameter was removed entirely to prevent the MONEY BAG multiplier Game Symbol from only appearing on winning tickets. Omitting this parameter ensures that this symbol will appear on both winning and non-winning GAMES.
- Parameter #34) [now #33 in the updated Working Papers] As dictated by the prize structure, the "MONEY BAG" Play Symbol will appear in the 5X Box when the player has won by getting three (3) "5" Play Symbols in a single row, column, or diagonal line. - This parameter was revised so the MONEY BAG game symbol will appear when the PRIZE for GAME 5 is multiplied by five (5) as detailed in the prize structure.

If preferred, we can add a parameter for GAME 5 specifically detailing that the MONEY BAG Game Symbol will appear on "The MONEY BAG Game Symbol will appear on both winning and non-winning both winning and non-winning GAMES. Please let me know your thoughts on this and I will make any necessary changes. GAMES."

Thank you,

Laura Thurston

From: Bowersock, Dale [mailto:Dale.Bowersock@lottery.state.tx.us] Sent: Wednesday, May 14, 2014 10:50 AM To: Thurston, Laura M; Burrola, Jessica Cc: Whyte, Penelope; Gaddy, Walter; Calderon, Sylvia; Edwards, Fran Subject: RE: ADDL COMMENTS 2; GAME # 1592 Fun 5's

In Game 5 we need the parameter to state that the Moneybag 5x multiplier symbol will be used on non-winning tickets as well as winning tickets. I don't see where that concern was addressed.

Dale Bowersock Instant Product Coordinator **Texas Lottery Commission** (512) 344-5166

From: Thurston, Laura M [mailto:Laura.Thurston@GTECH.COM] Sent: Wednesday, May 14, 2014 9:02 AM To: Burrola, Jessica Cc: Whyte, Penelope; Gaddy, Walter; Calderon, Sylvia; Edwards, Fran; Bowersock, Dale Subject: RE: ADDL COMMENTS 2; GAME # 1592 Fun 5's

Good morning,



GTECH-000181

ATTORNEYS' EYES ONLY

Attached are the updated working papers for game #1592 Fun 5's. Please let me know if you have any comments or questions.

Thank you,

Laura Thurston

From: Burrola, Jessica [mailto:Jessica.Burrola@lottery.state.tx.us] Sent: Monday, May 12, 2014 12:14 PM To: Thurston, Laura M Subject: ADDL COMMENTS 2; GAME # 1592 Fun 5's Importance: High

Please see below and attached, for a few more comments

- 1) Page 9, Game #3:
- 2) Game #4:
- 3) Game #5: Game parameters #33 and #34 (see below) mention the money bag symbol as only appearing on winning tickets. This would make it an easy target for micro-scratching since only the rest of game 5 would not have to be micro-scratched to know that it is a winner. We would prefer to have the money bag symbol appear on non-winning tickets, too.



Jessica Burrola | Instant Product Specialist| Texas Lottery Commission P.O. Box 16630 | Austin, TX 78761-6630 | 512-344-5125 jessica.burrola@lottery.state.tx.us

EXHIBIT A-5

REDACTED

Whyte, Penelope

From:	Bowersock, Dale <dale.bowersock@lottery.state.tx.us></dale.bowersock@lottery.state.tx.us>
Sent:	Wednesday, May 14, 2014 12:04 PM
To:	Thurston, Laura M; Burrola, Jessica
Cc:	Whyte, Penelope; Gaddy, Walter; Calderon, Sylvia; Edwards, Fran
Subject:	RE: ADDL COMMENTS 2; GAME # 1592 Fun 5's

What we are looking for is a parameter which is very clearly defined, such as:

"The "MONEY BAG" Play Symbol will appear in the 5X Box in approximately 25% of the tickets with nonwinning combinations in GAME 5."

Dale Bowersock Instant Product Coordinator Texas Lottery Commission (512) 344-5166

From: Thurston, Laura M [mailto:Laura.Thurston@GTECH.COM] Sent: Wednesday, May 14, 2014 9:02 AM To: Burrola, Jessica Cc: Whyte, Penelope; Gaddy, Walter; Calderon, Sylvia; Edwards, Fran; Bowersock, Dale Subject: RE: ADDL COMMENTS 2; GAME # 1592 Fun 5's

Good morning,

Attached are the updated working papers for game #1592 Fun 5's. Please let me know if you have any comments or questions.

Thank you,

Laura Thurston

From: Burrola, Jessica [mailto:Jessica.Burrola@lottery.state.tx.us] Sent: Monday, May 12, 2014 12:14 PM To: Thurston, Laura M Subject: ADDL COMMENTS 2; GAME # 1592 Fun 5's Importance: High

Please see below and attached, for a few more comments

1) Page 9, Game #3:

2) Game #4:

CONFIDENTIAL



GTECH-000183

EXHIBIT B

CAUSE NO. D-1-GN-14-005114

JAMES STEELE, et al., *Plaintiffs* IN THE DISTRICT COURT OF

VS.

GTECH CORPORATION, Defendant TRAVIS COUNTY, TEXAS

201ST JUDICIAL DISTRICT

AFFIDAVIT OF WALTER GADDY IN SUPPORT OF GTECH'S FIRST AMENDED PLEA TO THE JURISDICTION

STATE OF FLORIDA § SCOUNTY OF LEON §

BEFORE ME, the undersigned authority, personally appeared Walter Gaddy whose name is subscribed hereto, and who, being by me duly sworn, stated as follows:

1. "My name is Walter Gaddy. I am over twenty-one (21) years of age, of sound mind, and fully competent to make this affidavit. I have personal knowledge of the facts stated herein, and they are all true and correct.

2. I have been employed by IGT Global Solutions Corporation, formerly known as GTECH Corporation, as Regional Sales Director for 4 years and as a Senior Account Executive for approximately 5 years.

3. Previously, I was the Instant Product Manager for the Florida Lottery for 14 years before joining GTECH. Florida ranks among the top 5 largest lotteries in the sales of "Instant Products", more commonly referred to as scratch-off tickets.

4. The Texas Lottery Commission ("TLC"), as mandated by the Texas Legislature and Texas statute, owns and operates the Texas Lottery, including scratch-off ticket games.

5. The Fun 5's game upon which Plaintiffs and Intervenors sue is a scratch-off game owned and issued by the TLC. They claim the wording and symbols on the game were fraudulent and misleading.

6. Since 1991, the TLC has been the sole state government agency with the exclusive power to develop, market, and sell lottery games in Texas. The TLC contracted with GTECH to operate the Texas Lottery on behalf of and at the direction of the TLC.

7. By statute, the TLC is vested with exclusive authority to: (1) prescribe the form of the tickets and (2) determine which tickets are winning tickets;

8. GTECH does not contract with ticket retailers. GTECH has never had any contractual, licensing, employment or agency relationship with any of the TLC's retailers. It is

the 17,000 TLC retailers who contract directly with the TLC and which sell scratch-off games issued by the TLC, including the Fun 5's game;

9. GTECH's name does not appear on scratch-off tickets.

10. GTECH had no communication, contract, or other relationship with Plaintiffs or Intervenors regarding the Fun 5's game;

11. GTECH made no statement or representation to Plaintiffs or Intervenors about the Fun 5's game prior to their purchase of any Fun 5's tickets;

12. GTECH made no sale, promise, warranty, guarantee, or representation to any Plaintiffs or Intervenors about the Fun 5's game;

13. GTECH made no sale, promise, warranty, guarantee, or representation to Plaintiffs or Intervenors regarding any computer validation program or any rule, regulation, procedure, or operation related to the validation of any Fun 5's ticket;

14. GTECH was not a party to any relationship, contractual or otherwise, that may have existed between the TLC and Plaintiffs or Intervenors;

15. All determinations, rules, regulations, procedures, and operations regarding tickets and cash awards were decided upon and implemented by the TLC;

16. GTECH had no ownership interest in the Fun 5's scratch-off game;

17. GTECH had no role in drafting, commenting upon, reviewing or even seeing the official Rules for the Fun 5's game that were published in the Texas Registry. GTECH was not provided with said Rules before or after they were printed in the Texas Registry.

18. The TLC began selling the Fun 5's tickets through its 17,000 retailers on September 2, 2014. On October 20, 2014, the TLC closed the Fun 5's game. GTECH had no authority to close the Fun 5's game. That game was owned by the TLC and it decides when to close a game.

19. Scratch-off ticket games are offered at different price amounts from \$1 to \$50 and offer a wide variety of styles, designs, themes, and features.

20. The TLC has a large, experienced and sophisticated staff that selects, designs and determines which scratch-off tickets games the TLC will sell.

21. From my years of personally dealing with the TLC, I know that its staff has significant expertise in the design of scratch-off games and closely reviews and comments on the designs and wording of the games submitted to the TLC.

22. I also know from dealing with the TLC, that it has its own stylistic and design preferences for its scratch-off ticket games. Specifically, the TLC likes to change, customize, and incorporate its design preferences into scratch-off games proposed to it.

23. There are 3 outside vendors which propose potential scratch-off games to the TLC. GTECH is one of those 3 different vendors.

24. The TLC reviews the different games proposed by these 3 vendors and then chooses which scratch-off games it will sell.

25. Once it decides on a particular scratch-off game, the TLC staff decides what the specific design and wording will be for each of those scratch-off games.

26. On <u>March 13, 2013</u>, a prototype of what became known as the "Fun 5's" game was proposed by GTECH to the TLC as a potential scratch-off game.

27. Similar types of Fun 5's games had previously been sold in a few other states without consumer complaints. GTECH <u>proposed</u> to the TLC essentially the same design previously used in Nebraska.

28. The TLC ultimately selected the Fun 5's game concept as one of the scratch-off games it intended to sell in Texas.

29. The TLC and GTECH are the only parties to the "Contract for Instant Ticket Manufacturing and Services" (the "Printing Contract"). A true and correct copy is attached as **Exhibit B-1.**

30. GTECH had no authority or discretion to fail to perform its contractual obligations to the TLC, which included: (1) making changes to the design and wording of scratch-off games as instructed by the TLC; (2) receiving orders from the TLC's retailers for replacement tickets, delivering those tickets to retailers; (3) activating packets of tickets for retailers; and (4) computer validation of tickets.

31. Pursuant to Paragraph 7.3.1 of the Printing Contract, GTECH is required to prepare what are called "draft working papers." "Draft working papers" are the initial specification of the wording, artwork, color, prize structure and design of a proposed scratch-off game.

32. After GTECH prepares the initial "draft working papers," it sends them to the TLC staff for its review and changes to the design and wording.

33. Often the TLC staff makes several rounds of changes to the ticket design and wording which it accomplishes by marking up the "draft working papers". The TLC then emails its design changes back to GTECH.

34. Once the TLC decides on its final design and wording specifications for a scratchoff game, the finalized "working papers" then become the basis for the formal "order" by the TLC of a specific scratch-off game.

35. As required by Paragraph 7.3.1 of the Printing Contract, GTECH sent the initial "draft working papers" for the proposed Fun 5's game to the TLC on <u>April 16, 2014</u>.

36. The Fun 5's game included 5 different games on the face of one scratch-off ticket. For Game 5, the proposed design included a tic-tac-toe style of game, in which a player would need to get "three (3) 'BILL' Play Symbols in a single row, column, or diagonal line" to win. Game 5 also included a potential "Bonus Box" multiplier, wherein a player that won the tic-tactoe game could win five times the associated prize if the "5" Play Symbol appeared in the Bonus Box.

37. The <u>April 16, 2014</u> initial "draft working papers" for Game 5 of the Fun 5's game provided that the '5' Play Symbol will only appear in the Bonus Box when the player has won by getting three (3) 'BILL' Play Symbols in a single row, column, or diagonal line. Said differently, the "5" Play Symbol would <u>not</u> appear in the Bonus Box if the player did not win the tic-tac-toe game. A true and correct copy is attached as **Exhibit B-2**.

38. The TLC staff directed GTECH to change the design and wording originally proposed by GTECH by making changes to Game 5's instructions.

39. After reviewing GTECH's initial <u>April 16, 2014</u> "draft working papers", the TLC's staff emailed GTECH on <u>April 25, 2014</u> the first of its many design and wording changes to GTECH's original proposed design. A true and correct copy is attached as **Exhibit B-3**.

40. On <u>April 30, 2014</u>, the TLC directed GTECH to make another change to what had been proposed in the initial "draft working papers." A true and correct copy is attached as **Exhibit B-4**.

41. The TLC's staff directed GTECH to change the "Dollar Bill" symbol to a "5" symbol.

42. The TLC also directed GTECH to change the "5" symbol to a Money Bag play symbol.

43. GTECH obeyed the TLC's various instructions. These design and wording changes were decisions by the TLC, not GTECH.

44. On <u>May 12, 2014</u>, the TLC's staff issued more changes to the Fun 5's game. A true and correct copy is attached as **Exhibit B-5**.

45. The TLC further directed GTECH to change the game parameters for Game 5 so that the Money Bag symbol in the Bonus Box would also appear on 25% of the non-winning tickets. Specifically, on May 12, 2014, the TLC sent GTECH handwritten instructions that "Money Bag play symbol needs to appear on non-winning tickets also." To eliminate any doubt about its instructions, on May 14, 2014, Dale Bowersock of the TLC sent an e-mail to GTECH stating "The 'MONEY BAG' Play Symbol will appear in the 5X box in approximately 25% of the tickets with non-winning combinations in GAME 5."

46. The TLC directed this change as a security measure against "micro-scratching." Micro-scratching consists of someone using a small sharp object to unveil a microscopic portion of the play area of the scratch-off ticket to discern whether a ticket is a winner or a non-winner in a way that is largely undetectable. If the Money Bag symbol for Fun 5's only appeared on winning tickets, this might make the game an easy target for micro-scratching since the rest of Game 5 would not have to be micro-scratched to know that it was a winner. GTECH obeyed the design instructions from the TLC's staff. This change was a decision by the TLC, not GTECH.

47. Following the instructions of the TLC, GTECH incorporated the TLC's changes to the game's parameters and programmed its computers so that 25% of the tickets that had not won the tic-tac-toe game would reveal a Money Bag Play symbol in the 5X box.

48. GTECH did not select the final wording or final parameters of the Fun 5's game which Gary Grief, the Executive Director of the TLC, signed on May 15, 2014. A true and correct copy is attached as **Exhibit B-6.** In these final working papers, GTECH had merely incorporated the design and word changes instructed by the TLC.

49. As required by the Printing Contract, GTECH printed the Fun 5's tickets with the design, format, symbols and instructions ordered by the TLC. The TLC was the owner of that game and it decided on the final form of the Fun 5's tickets.

50. GTECH had no decision making authority as to the final form of the design and wording of the Fun 5's game. That game was not jointly designed by GTECH and the TLC. Rather, the final form of the Fun 5's ticket was the design of the TLC.

51. Pursuant to Paragraph 7.3.4, GTECH was contractually obligated to deliver Fun 5's tickets to the TLC's warehouse in Texas. GTECH printed the Fun 5's tickets as designed by the TLC and sent them via UPS to the TLC's 17,000 Texas retailers, as required by the Printing Contract."

52. The TLC sold the Fun 5's game from September 2, 2014 until the TLC closed the game on October 20, 2014.

Further Affiant sayeth not.

Valter Jally

5⁺ SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, on this the day of February, 2016.

ISAAC RANDOLPH Notary Public in and for MY COMMISSION # FF 116125 EXPIRES: April 26, 2018 Bonded Thru Notary Public Underwriters the State of Florida

Seal:

EXHIBIT B-1



CONTRACT FOR INSTANT TICKET MANUFACTURING AND SERVICES BETWEEN THE TEXAS LOTTERY COMMISSION AND GTECH PRINTING CORPORATION

RECITAL

This Contract is entered into by and between the Texas Lottery Commission, hereinafter referred to as "the Commission, TLC or the Texas Lottery," and GTECH Printing Corporation, 10 Memorial Boulevard, Providence, Rhode Island 02903, hereinafter referred to as "Contractor."

WHEREAS, the TLC previously issued a Request for Proposals (RFP) for Instant Ticket Manufacturing and Services (RFP No. 362-12-0001); and

WHEREAS, GTECH Printing Corporation submitted a proposal in response to the RFP; and

WHEREAS, following review of proposals submitted in response to the RFP, the TLC has selected Contractor to provide Instant Ticket Manufacturing and Services for the TLC for the Contract term and any renewal periods.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

I. TERM

This Contract shall commence on September 1, 2012, and continue through August 31, 2018, subject to the termination provisions in the RFP and subject to the TLC being continued and funded by the Texas Legislature.

The Texas Lottery reserves the right to extend this Contract, at its sole discretion, for up to two (2) additional three (3) year periods, at the Contract rate or rates as modified during the term of the Contract.

At the end of the initial term or any renewal period, and instead of exercising the renewal above, the Texas Lottery reserves the right to extend this Contract, at its sole discretion, for up to three (3) additional months, in one month intervals, at the Contract rate or rates as modified during the term of this Contract.

No later than sixty (60) days prior to the start of any renewal period(s), Contractor may be required to submit prices for the applicable renewal period. The Texas Lottery reserves the right to re-negotiate prices at any time during the Contract term or any renewal period.

At the end of the Contract term, or upon earlier termination under any provision of this Contract, Contractor shall, in good faith and with reasonable cooperation, aid in the transition to any new arrangement and provider, if requested by the Texas Lottery.

The TLC, in its sole discretion, may terminate, in whole or in part, this Contract at will and without cause upon no less than thirty (30) days' advance written notice. The TLC also may terminate this Contract immediately with written notice if the Executive Director, in his sole judgment, believes that the integrity or security of the TLC is in jeopardy and it is in the best interest of the TLC to do so.

II. PRODUCTS AND SERVICES

During the term of this Contract, Contractor, as an independent contractor and not as an employee or agent of the TLC, shall provide the following services:

Those products and services requested in and pertaining to the TLC Request for Proposals for Instant Ticket Manufacturing and Services (RFP), issued November 7, 2011 (attached hereto as Exhibit A), as may have been clarified and modified in responses to questions submitted by proposers (attached hereto as Exhibit B), Contractor's Proposal submitted January 27, 2012 (attached hereto as Exhibit C), and Contractor's revised Cost Proposal (Exhibit D). Contractor's revised Cost Proposal supersedes the cost proposal included in Contractor's Proposal and shall apply during the Contract term (including any renewal period).

Exhibits A, B, C and D are incorporated into this Contract by reference the same as if recited at length and are made a part of this Contract for all purposes. The terms of the RFP and the Proposal are controlling except as modified by the terms of this Contract, which shall control in all events. In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence: Sections I-VIII of this document, together with the Contractor's revised Cost Proposal (Exhibit D); the RFP as clarified and modified by amendment and in response to questions submitted by proposers (Exhibits A and B); and Contractor's Proposal (Exhibit C). Contractor's performance shall be in accordance with the terms and conditions established in Exhibits A, B, C and D and as specified in Sections I through VIII of this document.

Notwithstanding anything herein to the contrary, the parties agree the following RFP sections are replaced in their entirety as shown below and shall apply during the Contract term and any renewal period:

CONTRACT FOR INSTANT TICKET MANUFACTURING AND SERVICES BETWEEN THE TEXAS LOTTERY COMMISSION AND GTECH PRINTING CORPORATION

1. RFP Glossary of Terms, definition of "Works"

Any tangible or intangible items or things that have been or will be prepared, created, maintained, serviced, developed, incorporated, provided or obtained by a Successful Proposer (or such third parties as the Successful Proposer may be permitted to engage) at any time following the effective date of the Contract, for or on behalf of TLC under the Contract, including but not limited to any (i) works of authorship (such as literary works, musical works, dramatic works, choreographic works, pictorial, graphic and sculptural works, motion pictures and other audiovisual works, sound recordings and architectural works, which includes but is not limited to lottery games, game names, game designs, ticket format and layout, manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer software, scripts, object code, source code or other programming code, HTML code, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works fixed in any tangible media, and all other copyrightable works), (ii) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin, (iii) ideas, designs, concepts, personality rights, methods, processes, techniques, apparatuses, inventions, formulas, discoveries, or improvements, including any patents, trade secrets and knowhow, (iv) domain names, (v) any copies, and similar or derivative works to any of the foregoing, (vi) all documentation and materials related to any of the foregoing, and (vii) all other goods, services or deliverables to be provided to TLC under the Contract.

2. RFP Section 3.27 (Pre-Existing and Third Party Rights)

3.27.1 To the extent that any pre-existing rights and/or third party rights or limitations are embodied, contained, reserved or reflected in the Works, the Successful Proposer shall either (a) grant to the Texas Lottery the irrevocable, perpetual, nonexclusive, worldwide, royalty-free right and license to (i) use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such pre-existing rights and any derivative works thereof in connection with the sale, offering for sale, marketing, advertising, and promotion of the Texas Lottery's goods and services, and in all forms of media, media channels and/or publicity that may now exist or hereafter be created or developed, including but not limited to television, radio, print, Internet, and social media (e.g., Facebook, Twitter, YouTube, etc.) and (ii) authorize others to do any or all of the foregoing, or (b) where the obtaining of the aforementioned rights is not reasonably practical or feasible, provide written notice to the Texas Lottery of such pre-existing or third party rights or limitations, request the Texas Lottery's approval of such preexisting or third party rights, obtain a limited right and license to use such preexisting or third party rights on such terms as may be reasonably negotiated, and obtain the Texas Lottery's written approval of such pre-existing or third party rights and the limited use of same. The Successful Proposer shall provide the Texas Lottery with documentation indicating a third party's written approval for the Successful Proposer to use any pre-existing or third party rights that may be embodied, contained, reserved or reflected in the Works. The Successful Proposer shall indemnify, defend and hold the Texas Lottery harmless from and against any and all claims, demands, regulatory proceedings and/or causes of

CONTRACT FOR INSTANT TICKET MANUFACTURING AND SERVICES BETWEEN THE TEXAS LOTTERY COMMISSION AND GTECH PRINTING CORPORATION

action, and all losses, damages, and costs (including attorneys' fees and settlement costs) arising from or relating to, directly or indirectly, any claim or assertion by any third party that the Works infringe any third party rights. The foregoing indemnity obligation shall not apply to instances in which the Texas Lottery either (y) exceeded the scope of the limited license that was previously obtained by the Successful Proposer and agreed to by the Texas Lottery, or (z) obtained information or materials, independent of the Successful Proposer's involvement or creation, and provided such information or materials to the Successful Proposer for inclusion in the Works, and such information or materials were included by the Successful Proposer, in an unaltered and unmodified fashion, in the Works.

- 3.27.2 The Successful Proposer shall provide the Texas Lottery a copy of the license agreement between the Successful Proposer and the licensor for all licensed, branded and proprietary games produced by the Successful Proposer for the Texas Lottery under this Contract. The Successful Proposer must provide the license agreement to the Texas Lottery with the draft working papers. If the licensor has prohibited the Successful Proposer from providing the license agreement to the Texas Lottery, the Successful Proposer shall provide other proof of its license rights acceptable to the Texas Lottery in the agency's sole discretion.
- 3.27.3 The Successful Proposer agrees that it shall have and maintain, during performance of any Contract arising from this RFP, written agreements with all employees, Subcontractors, or agents engaged by the Successful Proposer in performance hereunder, granting the Successful Proposer rights sufficient to support all performance and grants of rights by the Successful Proposer. Copies of such agreements shall be provided to the Texas Lottery promptly upon request.

3. RFP Section 3.35.2 (Performance Bond)

3.35.2 The bond must be maintained in full force and effect for the initial term and any renewal term of the Contract. The bond shall be forfeited to the Texas Lottery if the Successful Proposer fails to perform as required by the Contract, pay sanctions or liquidated damages, or indemnify the Texas Lottery. Any alterations to the bond language as shown in Attachment F must be approved in advance by the Texas Lottery.

4. RFP Section 7.3 (Individual Instant Game Development Schedule)

For those games within the fiscal year instant ticket Game Plan, it is the expectation of the Texas Lottery that each Successful Proposer designated to produce their games will prepare draft artwork and prize structures well in advance of the scheduled launch date for each game or each Successful Proposer shall provide draft artwork and prize structure to the Texas Lottery within five (5) Working Days upon request from the Texas Lottery.

- 7.3.1 Upon receiving approval of artwork and prize structure from the Texas Lottery, the Successful Proposer must provide draft working papers to the Texas Lottery within five (5) business days.
- 7.3.2 The Successful Proposer shall provide to the Texas Lottery Instant Product Coordinator two (2) color proofs of the ticket image for each game for approval. One proof shall be provided with the draft working papers and the second prior to production.
- 7.3.3 Upon review of the draft working papers, the Texas Lottery will provide requested changes to the Successful Proposer. The Successful Proposer must provide final working papers to the Texas Lottery within two (2) business days of receipt of the requested changes.
- 7.3.4 The Successful Proposer must deliver tickets to the Texas Lottery's warehouse no later than the delivery date specified in the final executed working papers.
- 7.3.5 Post Executed Changes. Any changes to the final executed working papers must be in writing and approved by the Executive Director or his designee before production of the instant game begins.

For those games that the Texas Lottery determines to add to the fiscal year instant ticket Game Plan, it is the expectation of the Texas Lottery that each Successful Proposer shall provide draft artwork and prize structure to the Texas Lottery within five (5) business days upon request from the Texas Lottery.

- 7.3.6 Upon receiving approval of artwork and prize structure from the Texas Lottery, the Successful Proposer must provide draft working papers to the Texas Lottery within five (5) business days.
- 7.3.7 The Successful Proposer shall provide to the Texas Lottery Instant Product Coordinator two (2) color proofs of the ticket image for each game for approval. One proof shall be provided with the draft working papers and the second prior to production.
- 7.3.8 Upon review of the draft working papers, the Texas Lottery will provide requested changes to the Successful Proposer. The Successful Proposer must provide final working papers to the Texas Lottery within two (2) business days of receipt of the requested changes.
- 7.3.9 The Successful Proposer must deliver tickets to the Texas Lottery's warehouse no later than the delivery date specified in the final executed working papers.
- 7.3.10 Post Executed Changes. Any changes to the final executed working papers must be in writing and approved by the Executive Director or his designee before production of the instant game begins.

CONTRACT FOR INSTANT TICKET MANUFACTURING AND SERVICES BETWEEN THE TEXAS LOTTERY COMMISSION AND GTECH PRINTING CORPORATION

5. RFP Section 7.8 (Working Papers)

- 7.8.1 Working papers for each instant game will be generated by the Successful Proposer in a format designated by the Texas Lottery. Executed working papers must be complete and free of any errors. Production of any instant game will not proceed until the Texas Lottery Executive Director or designee gives written authorization. Any changes made after the execution of working papers must be approved through the execution of a post executed change and signed by the Texas Lottery Executive Director or designee. Instant game development schedules will be established by the Texas Lottery and working papers executed in order to facilitate an orderly process for the production and delivery of instant games. The TLC reserves the right to cease production of any executed game that has not been printed yet. The Successful Proposer may invoice the Texas Lottery agrees to pay such costs up to a maximum of \$4,000 per game.
- 7.8.2 For licensed property instant games, the terms of the working papers for the particular game will control in the event of a conflict with any provisions of this RFP.
- 7.8.3 Working papers for each Texas Lottery instant game will at a minimum include, but not be limited to, specifications for the following:
 - (a) Game name, number, date and version.
 - (b) Color version of ticket, covered and uncovered, at 100% and 200%.
 - (c) Back of ticket at 100% and 200%.
 - (d) Ticket size and paper stock to be used.
 - (e) Uniform Product Code (UPC) number, which is unique to each game.
 - (f) Placement of Bar code on uncovered ticket.
 - (g) Front display colors, overprint colors, and security tint colors.
 - (h) Description of play style.
 - (i) Quantity ordered.
 - (j) Orientation of ticket front and back, and press layout configuration.
 - (k) Pack size and configuration.
 - (1) Prize structure including: game name, number, date and version, ticket price point, production quantity, percent of prize payout, net revenue generated, each tier level for prizes and play action indicating how each tier is won, odds per prize level, overall odds of winning any prize in the game and consolidated odds if there is more than one way to win a prize, winners per pack and per pool, prize cost and percent of prize fund dedicated to each prize level, and percent of prize fund dedicated to low, mid and high tier prize levels, designation of low, mid and high tier prizes, Guaranteed Low-End Prize Structure (GLEPS) for each pack of tickets broken out into different GLEPS patterns (up to six (6)) and number of winners per pack. Prize structure may be required to show a statement that all top prizes and combination of prizes totaling the top prize are guaranteed.
 - (m) Ticket layout for front and back imaging.
 - (n) Description of validation number, bar code and UPC code.

CONTRACT FOR INSTANT TICKET MANUFACTURING AND SERVICES BETWEEN THE TEXAS LOTTERY COMMISSION AND GTECH PRINTING CORPORATION

- Detail of all actual size of legends, play spots, captions, numbers/symbols, and prize spots
- (p) Description of validation media, inventory files and end of production reports. Description should include file characteristics and record layout.
- (q) Programming parameters or constraints as directed by the Texas Lottery.
- (r) Deliverables schedule.
- (s) Order and price confirmation page for sign-off approval by the Texas Lottery.
- Color ink draw downs, including proposed options such as varnish, tints, metallic inks, fluorescent inks, etc.

6. RFP Section 8.7 (Guaranteed Low End Prize Structure (GLEPS))

Each pack of tickets must contain a guaranteed dollar value of low-tier prizes as specified by the Texas Lottery in the executed working papers. Up to six (6) different configurations of low-tier prizes must be equally and randomly incorporated in each pool and throughout all pools in the game. The different ways to win a low-tier prize within a GLEPS configuration will be randomly placed within a pack of tickets. Each configuration must have the same total dollar value of low-tier winners, but each will have varying numbers of winners of various denominations. Low-tier is currently defined as a prize value of \$24.99 or less. For higher price point games that do not contain lowtier or adequate low-tier prizes, a comparable structure for lower value prizes will be required as specified by the Texas Lottery in the executed working papers and/or the Customer Specifications Document. The low-tier values will be defined in the Customer Specifications document and working papers.

7. RFP Section 8.16 (Pre-Production Certification and Color Proof Approval)

- 8.16.1 The Texas Lottery incorporates the highest standards of security and integrity and reserves the right to inspect all tickets produced under any Contract to ensure compliance with the RFP specifications.
- 8.16.2 The Successful Proposers(s) shall certify the accuracy of the game prize structure, and that all Texas Lottery requirements including any parameters and/or constraints have been met, via email to specified Texas Lottery staff, prior to game production.
- 8.16.3 Upon written request by the Texas Lottery Operations Director, the Successful Proposer shall furnish all of the actual game computer and related program reports to the Texas Lottery prior to production.
- 8.16.4 Upon written request by the Texas Lottery Operations Director, the Successful Proposer also must provide, for each game, an image of the computer-generated printout from the test pools illustrating each of the GLEP patterns (up to six (6)) and the reconstruction reports of these packs. Also upon request, the Successful Proposer shall also provide all information pertinent to the test pools, including any summary reports.

- 8.16.5 The Successful Proposer shall provide to the Texas Lottery Instant Product Coordinator two (2) color proofs of the ticket image for each game for approval. One proof shall be provided with the draft working papers and the second prior to production.
- 8.16.6 The Successful Proposer shall not produce any game until the Texas Lottery receives the preproduction certification email, approves the ticket color proof, and authorizes game production.

8. RFP Section 8.19 (End of Production Prize Structure)

Prior to the arrival of a printed game at the Texas Lottery warehouse facility, the Successful Proposer must submit an end of production prize structure report for the game which shall be verified in the standard audit letter by a certified public accounting firm under Section 8.17. This report is a listing of the summary of the prize value in the game by prize level. The end of production prize structure report must be e-mailed as specified by the Texas Lottery with the low and mid/high tier electronic validation files, and all must be received by the Texas Lottery prior to actual delivery of tickets to the warehouse. The Texas Lottery will review the Successful Proposer's end of game prize structure for each game and if any errors are detected, the Successful Proposer must correct the errors as soon as identified. However, in no event shall the deadline for instant ticket delivery specified in the executed working papers be extended. Should the End of Production variance cause the odds or other statements on the printed tickets to be incorrect, the Texas Lottery may determine the game to be non-conforming and, in accordance with Section 3.54.15, withhold any amounts due to the Successful Proposer under the Contract.

In addition to the RFP changes above, Contractor shall permit the Texas Lottery and its instant ticket manufacturing vendors to use Secure ShieldTM, Contractor's secure validation algorithm for use with hidden barcodes (described in Contractor's Proposal at pp. 8.34-8 -9), on all Texas Lottery instant tickets at no charge.

III. PAYMENT

All payments will be made in accordance with this Section III and the Texas Government Code ANN. § 2251 et seq. ("Payments for Goods and Services"). Contractor shall submit invoices monthly for the previous month's services. Each invoice shall note the contract number, services rendered, and date of services. Contractor shall submit invoices for each game, noting the Contract number and detailing services rendered, including game name, game number, quantity of tickets shipped, cost per thousand per executed working papers and/or any costs associated with the game. Invoices must also include the individual purchase order number provided by the Texas Lottery for that particular game.

Invoices may be submitted by mail to the Texas Lottery Commission, P. O. Box 16630, Austin, Texas 78761-6630, Attn: Accounts Payable or by e-mail to AccountsPayable@lottery.state.tx.us. Payments will be made only upon the completion of services or after the delivery of goods authorized in an approved invoice.

CONTRACT FOR INSTANT TICKET MANUFACTURING AND SERVICES BETWEEN THE TEXAS LOTTERY COMMISSION AND GTECH PRINTING CORPORATION

Pursuant to Texas Government Code Ann. Section 2251.025, interest is not due on a payment until it becomes "overdue." A payment is not "overdue" until the 31st day after the latter of: (1) the date the Texas Lottery receives the goods covered by the contract; (2) the date the performance of service under the contract is completed; or (3) the date the Texas Lottery receives an invoice for the goods or services. *See* Tex. Gov't Code Ann. Section 2251.021. Services are "completed" when accepted by the Texas Lottery.

Contractor agrees that if the Texas Comptroller of Public Accounts is prohibited from issuing a warrant to Contractor under section 403.055 of the Texas Government Code, any payments owed to Contractor will be applied towards the debt or delinquent taxes that Contractor owes the State of Texas until the debt or delinquent taxes are paid in full.

IV. MODIFICATION

The TLC and Contractor may by mutual agreement modify the scope, personnel and prices set forth in this Contract. This modification must be in writing, recite that it is a modification pursuant to Section IV of the Contract, and be signed by individuals having the authority to bind the parties.

In no event shall Contractor be paid for work not authorized by the Contract or any of its written modifications.

V. GENERAL PROVISIONS

The following general provisions are specifically applicable to Contractor during the term of this Contract and any extension thereof, and shall survive the Contract where necessary:

A. Marketing and Advertising. No marketing or advertising related to this Contract may be conducted by Contractor without the prior written consent of the TLC.

B. Contractor Employees. In addition and subject to the requirements set forth in the RFP, Contractor shall assign the work required by this Contract only to those persons identified in Contractor's Proposal by name, together with staff category, and who are reasonably satisfactory to the TLC. Contractor shall report on a quarterly basis, with deadlines to be supplied by the TLC, the number of full-time equivalent (FTE) employees used by Contractor or any subcontractors to provide goods and services under this Contract.

C. Improper Influence. Contractor hereby agrees that Contractor shall not knowingly make a gift, loan or political contribution, either directly or indirectly, to any Texas State Officer or a member of the Texas State Legislature, during the term of this Contract. For purposes of this Contract, "Texas State Officer" means those whose duties concern the State of Texas at large or the general public, or who are authorized to exercise their official functions throughout the entire State, without limitation to any political subdivision of the State. Contractor further agrees that it shall direct its officers, directors, employees, agents, lobbyists and representatives not to make any such gift, loan or political contribution on Contractor's behalf; provided, that any gifts, loans or political contributions that these individuals or entities may make on their own behalf or on

CONTRACT FOR INSTANT TICKET MANUFACTURING AND SERVICES BETWEEN THE TEXAS LOTTERY COMMISSION AND GTECH PRINTING CORPORATION

behalf of someone other than Contractor shall not be a violation of this provision. Any violation of this provision may, at the sole discretion of the TLC, result in either the immediate termination of this Contract or liquidated damages in the amount of \$10,000 for each occurrence.

D. Conflict of Interest. Contractor shall promptly disclose to the Texas Lottery in writing any actual, potential or perceived conflict of interest, relative to the performance of the requirements of this Contract. Contractor must disclose any personal or business relationship of (a) itself; (b) any of its principals, officers, directors, investors, owners, partners, and employees (collectively, Contractor Personnel); (c) any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of any Contractor Personnel; (d) any affiliate; or (e) any Subcontractor, with any employee or representative of the Texas Lottery (including the Texas Lottery Executive Director and its commissioners) or its prime vendors.

Change in Financial Condition. Contractor shall notify the Texas Lottery of a material E. adverse change in its financial condition during the Contract term and any renewal thereof. If the Contractor experiences a material adverse change during the term of the Contract or any extension thereof. Contractor shall notify the Texas Lottery in writing of such change at the time the change occurs or is identified. Failure to notify the Texas Lottery of such material adverse change will be sufficient grounds for terminating the Contract. The term "material adverse change" shall mean any change or changes that individually or in the aggregate are materially adverse to (i) the assets, properties, business, results of operations or financial condition, taken as whole. Contractor applicable obligor, a of or other (iii) the ability of Contractor or such other obligor to perform its or their obligations under the Contract, or (iii) the legality or enforceability against Contractor or such obligor of the Contract.

F. Contractor Standards. Contractor shall perform its responsibilities by following and applying at all times the highest professional and technical guidelines and standards.

G. Contingencies. This Contract is subject to the following contingencies:

(1) Contractor's presentment of all bonds and insurance certificates in the form and amount required by the TLC in accordance with the requirements set forth in the RFP.

(2) Satisfactory criminal history and background investigation report in accordance with the requirements of the State Lottery Act (Chapter 466 of the Texas Government Code), including Sections 466.103 and 466.155.

H. Multiple Originals. This Contract is executed in three (3) identical copies, each of which shall be deemed an original.

CONTRACT FOR INSTANT TICKET MANUFACTURING AND SERVICES BETWEEN THE TEXAS LOTTERY COMMISSION AND GTECH PRINTING CORPORATION

VI. NOTICES

Unless otherwise directed, all invoices, notices, reports and correspondence required by this Contract shall be in writing and delivered to the following representatives of the TLC and Contractor, or their successors in function:

Texas Lottery	Contractor
Angela Zgabay-Zgarba	Joseph Lapinski
Contracts Administrator	Account Development Manager
Texas Lottery Commission	GTECH Printing Corporation
P.O. Box 16630	5301 Riata Park Court
Austin, Texas 78761-6630	Austin, Texas 78727

VII. APPLICABLE LAW

This Contract [Sections I-VIII of this document, the RFP (Exhibit A), as may have been clarified and modified in responses to questions submitted by proposers (Exhibit B), Contractor's Proposal (Exhibit C), and Contractor's revised Cost Proposal (Exhibit D)] shall be governed by and construed in accordance with the laws of the State of Texas, and venue for any dispute arising from this Contract shall be in state district court, Travis County, Texas. This Contract constitutes the entire agreement between the TLC and Contractor, and may be amended only by formal written agreement properly executed by both the TLC and Contractor.

VIII. EQUAL OPPORTUNITY

Contractor agrees that all employees shall be recruited, hired, trained, assigned, promoted, transferred, downgraded, laid off, recalled and terminated based upon their own abilities, achievements and experience, and in compliance with the provisions of the Civil Rights Act of 1964 (42 USCA 2000e, *et. seq.*) and other applicable federal and state laws.

CONTRACT FOR INSTANT TICKET MANUFACTURING AND SERVICES BETWEEN THE TEXAS LOTTERY COMMISSION AND GTECH PRINTING CORPORATION

EXECUTED on this 3^{rd} day of <u>August</u> 2012, by a person having the authority to contractually bind GTECH Printing Corporation.

GTECH PRINTING CORPORATION By: ALAN ELAND PRESIDENT

EXECUTED on this $7^{\frac{1}{2}}$ day of 40 cm 2012, by a person having the authority to contractually bind the Texas Lottery Commission.

TEXAS LOTTERY COMMISSION

By:

GARY GRIEF

CONTRACT FOR INSTANT TICKET MANUFACTURING AND SERVICES BETWEEN THE TEXAS LOTTERY COMMISSION AND GTECH PRINTING CORPORATION

EXHIBIT B-2

Whyte, Penelope

From:Whyte, PenelopeSent:Wednesday, April 16, 2014 4:32 PMTo:Edwards, FranCc:Burrola, Jessica; Calderon, Sylvia; 'Bowersock, Dale'; Gaddy, WalterSubject:Draft Game 1592 Fun 5sAttachments:TX 1592 Funs 5s Draft wps.pdf

Hi Fran,

Please find attached the draft working papers for Game 1592 Fun 5s for your review. The file was too large to send so I had to reduce the pdf. Some of the art edges may appear fuzzy. Thanks you,

Penny Whyte

Client Services Office: 863.248.1348 Cell: 863.399.0715 penelope.whyte@gtech.com



TEXAS LOTTERY

Working Papers

"FUN 5s"



INSTANT GAME NUMBER #1592

APRIL 4, 2014

VERSION 1

GTECH PRINTING JOB NUMBER 005885



4100 S. FRONTAGE ROAD, BUILDING 400, LAKELAND, FL 33815 PHONE: 863-248-1400 FAX: 863-248-1452

CONFIDENTIAL

GTECH-000018

TEXAS LOTTERY

WORKING PAPERS

FOR

"FUN 5s"

(INSTANT GAME NO. 1592)

TABLE OF CONTENTS

Front Ticket Scenes 1, 2, 3 (covered)	1-3
Front Ticket (uncovered)	4
Front Ticket (overlay)	5
Ticket Back	6
Prize Structure	7-8
Programming Images	9
Ticket Image	10
Pack Insert1	1-12
Detailed Specifications1	3-14
Game Parameters1	5-16
Delivery Schedule	17
Order Confirmation	18
Amendment History	19



TX #1592 "FUN 5s" 8.0" x 4.0" R2



Representation of TICKET FRONT COVERED

Color laser print is intended to approximate four color process, Pantone, metallics and/or fluorescent colors and use for content, Actual printed colors may vary.

SCENE 1 HEAD



TEXAS LOTTERY

FUN 5s

PERF - ·



TX #1592 "FUN 5s" 8.0" x 4.0" R2



Representation of TICKET FRONT COVERED

Color laser print is intended to approximate four color process, Pantone, metallics and/or fluorescent colors and use for content. Actual printed colors may vary.

SCENE 2 HEAD



TEXAS LOTTERY

FUN 5s

VERSION 1 Page 2 APRIL 4, 2014



TX #1592 "FUN 5s" 8.0" x 4.0" R2



Representation of TICKET FRONT COVERED

Color laser print is intended to approximate four color process, Pantone, metallics and/or fluorescent colors and use for content. Actual printed colors may vary.

SCENE 3 HEAD



FUN 5s

1 Page 3 APRIL 4, 2014



TX #1592 "FUN 5s" 8.0" x 4.0" FI2



Representation of TICKET FRONT UNCOVERED

Color laser print is intended to approximate four color process, Pantone, metallics and/or fluorescent colors and use for content. Actual printed colors may vary.

SCENE 1 HEAD



TEXAS LOTTERY

FUN 5s

VERSION 1 Page 4 APRIL 4, 2014

GTECH-000023



TX #1592 "FUN 5s" 8.0" x 4.0" 82



Representation of TICKET FRONT OVERLAY

Color laser print is intended to approximate four color process, Pantone, metallics and/or fluorescent colors and use for content. Actual printed colors may vary.

SCENE 1 HEAD







FUN 5s

POOL SIZE:		75 120,000				April 8,	PRIZE STRUCTURE April 8, 2014 - Version 2			PRIZE FUND: PERCENTAGE:		\$55.076.875 \$55.00%
			Number of	TOTAL			PRIZES PER	PRIZES	PRIZE	% OF	% PER	
PRIZE	TIER		Wins Per Ticket	PRIZE	ODDS (1 IN:)	TOTAL	120,000 POOL	PER	COST	PRIZE	PRIZE	COMBINED
01	1	85	1	ŝ	8,33	1,944,000	14,400,00	00.6	\$9.720,000	17.65%	Low	2
62	_	\$5×2	2	\$10	25.00	648,000	4,800.00	3,00	\$6,480,000	11.77%	54.91%	\$10 odds 1 in:
03	L	\$10	-	\$10	37,50	432,000	3,200.00	2.00	\$4,320,000	7,84%		15.00
8	-	\$5×3	m	\$15	75,00	216,000	1,600.00	1.00	\$3,240,000	5.88%		\$15 odds 1 in:
05	-	\$10 + \$5	2	\$15	75.00	216,000	1,600.00	1.00	\$3,240,000	5.88%		25,00
8	-	\$15	-	\$15	75.00	216,000	1.600.00	1.00	\$3,240,000	5,88%		
07	W	\$25	i.	\$25	600,000	27,000	200.00	0.13	\$675,000	1.23%	MIG	\$25 odds 1 in:
08	W	\$5 w/ 5 symbol	÷	\$25	100,00	162,000	1,200.00	0.75	\$4,050,000	7.35%	41.94%	42.63
60	W	(\$10 × 2) + \$5	m	\$25	200,00	81,000	500.00	0.38	\$2.025,000	3,58%		
10	W	\$5×5	w	\$25	147,24	110,025	815,00	0,51	\$2,750,625	4,99%		9
F	¥	\$50	-	\$50	600.00	27,000	200.00	0.13	\$1,350,000	2.45%		\$50 odds 1 in:
12	¥	\$10 w/ 5 symbol	-	\$50	150.00	108,000	800.00	0.50	\$5,400,000	9.80%		75.00
13	W	(\$15 × 3) + \$5	4	\$50	600.00	27,000	200.00	0.13	\$1,350,000	2.45%		
14	¥	\$10×5	IJ	\$50	600,00	27,000	200,00	0.13	\$1,350,000	2,45%		
15	W	\$5 x 10	10	\$50	600.00	27,000	200,00	0.13	\$1,350,000	2.45%		
16	W	\$75	-	\$75	12.000.00	1,350	10.00	0.01	\$101,250	0.18%		\$75 odds 1 in:
17	M	\$15 w/ 5 symbol	-	\$75	3,000,00	5,400	40,00	0.03	\$405,000	0.74%		923,08
18	W	(S5 x 11) + (\$10 x 2)	13	\$75	1,500.00	10,800	80.00	0.05	\$810,000	1.47%		
19	W	\$100		\$100	12.000.00	1,350	10.00	0.01	\$135,000	0.25%		\$100 odds 1 in:
20	¥	\$25 × 4	4	\$100	6,000,00	2,700	20,00	0.01	\$270,000	0.49%		1,500.00
21	W	$($10 \times 7) + ($5 \times 6)$	13	\$100	2,400,00	6,750	50.00	0.03	\$675,000	1.23%		
23	W	\$500	-	\$500	120,000,00	135	1,00	00'0	\$67,500	0.12%		\$500 odds 1 in:
ន	¥	\$100 w/ 5 symbol		\$500	40,000.00	405	3,00	0.00	\$202,500	0.37%		20,000.00
24	W	(\$25 x 6) + (\$50 x.7).	13	\$500	60,000,00	270	2.00	00.0	\$135,000	0.25%		
55	I	$(S50 \times 6) + (S100 \times 7)$	13	\$1,000	240,000.00	68	0.50	0.00	\$67,500	0.12%	High	\$1.000 odds 1 in:
26	н	\$1,000	-	\$1,000	240,000.00	68	0.50	00'0	\$67,500	0.12%	3.15%	120,000.00
27	H	\$100 DOD		P400.000	000 LOO 00 0	and the second s						

GAME 1592

GAME 1592

DATE

TEXAS LOTTERY COMMISSION

APPROVED:

** Numbers are rounded.

Each of the four GLEPS types will be used in approximately

TOTAL PRIZES

PLAY ACTION

PRIZE LEVEL

\$5 × 2 \$5 × 2 \$10 \$5 × 3 \$15 × 3 \$15

0 05 03 03 03

*** Low Titer=\$1.\$24,99, Mild Titer=\$25-\$599, High Titer=\$500+ (Used for V didation Purposes) **** There will be no more than

***** Exact delivery to Lottery

											0	54,000	400
1.080.000	648,000	380,025	216,000	17,550	10,800	810	135	16	4,297,336		0	54,000	400
15.00	25.00	42.63	75.00	923,08	1.500,00	20,000,00	120.000,00	1.012,500.00		RES			
510	S15	\$25	\$50	S75	\$100	\$500	\$1,000	\$100,000		GLEPS STRUCTU	8	54,000	400
											A	54,000	400
											GLEPS TYPE:	PACKS PER GAME-	PACKS PER POOL:
										GLEPS STRUCTURES	A		

TNUOWA

TOTAL 216,000 1,600 TOTAL

TEXAS LOTTERY COMMISSION "FUN 5's" GAME No. 1592 April 8. 2014 - Version 2 PRIZE STRUCTURE

Consolidated odds are 1 in:

8.33 52

1,944,000




PRIZE SYMBOLS

\$5.00	\$10.00	\$15.00	\$25-00	\$50.00
FIVE\$	TEN\$	FIFTN	TWY FIV	FIFTY
\$75-00	\$100	\$500	\$1,000	\$100,000
SEVENTY FIV	ONE HUND	FIV HUND	ONE THOU	HUN THOU

VALIDATION NUMBER

0123456789 VOID

GAME/PACK/TICKET NUMBER

0123456789 = VOID

1592-V0I)001-001(075) •

FUN 5s

BACK OF TICKET



TEXAS LOTTERY



TX #1592 "FUN 5s" 8.0" x 4.0" R2

.

Representation of TICKET IMAGE







HEAD



4"



ТΧ	#1	592
"FL	JN	56"

R2

PROCESS BLACK Representation of PACK INSERT BACK



4"



DETAILED SPECIFICATIONS:					
GTECH Job Number:	005885				
Game Number:	1592				
Order Quantity:	16,200,000 ±2%				
Ticket Size:	8.0" x 4.0" vertical				
Price Point:	\$5				
Pack Size:	75				
Orientation of Tickets:	Vertical				
Number of Scenes:	3 – alternating in a pa any scene.	ick. The first ticket of each pack may start on			
Stock:	10-point virgin/recycl	able C-1-S Plus			
Play Areas:	Five (5) on face of tic	ket			
Top Prize:	\$100,000				
UPC Symbol:	8 17522 01592 0				
Benday:	on a press repeat. T to detect intro	be printed in this game on all play areas. The must be unique for each ticket he fingerprint lines should be usion if the play symbols are altered.			
	ticket.	will not be printed he ticket numbering area in the front of the			
Game Type:	Omissions				
Inks - Face of Ticket: (Overprint & Graphics)	Four (4) colors:	Black Cyan Magenta Yellow			
Front Imaging Colors:	One (1) color:	Black			

Inks - Back of Ticket:

FUN 5s

One (1) color:

Black

Base Coat (Primer):	printed with a pase of	The variable game data in the game play and VIRN areas will be printed with a printed base coat beneath the imaging on the front of the ticket. The primer will not appear in the primer area or in the tick number window.		
	· · · · · · · · · · · · · · · · · · ·	will be based on the Primer samples as lient Standards, Version 1.6.		
Seal/Release Coat:	Special clear, smooth sec on the ticket front.	Special clear, smooth security coat covering all variable game data on the ticket front.		
Gloss UV Coating:	A full bleed gloss coat co	A full bleed gloss coat covering the entire ticket front.		
Game Type:	Play Style:(22) Multiple GamesTheme:(15) OtherPrize Type:(01) CashProduct Name:FUN5SSize Description:(04) 4 X 8Color Description:(25) Alternating ScenesPlay Feature Description:(03) 5X			
Special Instructions:	None			

GAME PARAMETERS

- 1) Players can win up to thirteen (13) times on a ticket in accordance with the approved prize structure.
- 2) There is no relation between the position of a ticket in a pack and its status (winner or nonwinner).
- 3) Adjacent non-winning tickets within a pack will not have identical Play and Prize Symbol patterns. Two (2) tickets have identical Play and Prize Symbol patterns if they have the same Play and Prize Symbols in the same positions.
- 4) No consecutive string of non-winning tickets will be greater than , which is 2 times the overall odds for this Play rounded to the nearest whole number.
- 5) The top Prize Symbol will appear on every ticket unless otherwise restricted by other parameters, play actions or prize structure.
- 6) The number of winners in each pack will not exceed
- 7) The top Prize level (all prize tiers for that level combined) will be approximately evenly distributed throughout the delivered Play.
- 8) No more than winners of \$25 to \$50 per pack.
- 9) No more than winner of \$75 and higher per pack.
- 10) The number of wins will be distributed approximately proportionally among the thirteen (13) play areas unless otherwise restricted by the prize structure.

Game 1

Game 2





Game 5

- 32) Non-winning Plays will contain two (2) "BILL" Play Symbols in at least one (1) row, column or diagonal.
- 33) Non-winning Plays will contain at least four (4) "BILL" Play Symbols, at least one (1) of which is in the top horizontal row.
- 34) The "5" Play Symbol will only appear in the Bonus Box on eligible winning tickets that win 5X the associated prize.
- 35) As dictated by the prize structure, the "5" Play Symbol will only appear in the Bonus Box when the player has won by getting three (3) "BILL" Play Symbols in a single row, column, or diagonal line.
- 36) Winning Plays will have only one occurrence of three (3) "BILL" Play Symbols in any row, column, or diagonal.

Delivery Schedule:

GTECH Printing will generate $16,200,000 (\pm 2\%)$ tickets according to the schedule detailed below.

Ship Printed Tickets	09/22/14
Delivery of Tickets on or before	09/24/14
Tentative Start of Sales	10/27/14

**This game must print 09/01/14 or later

ORDER CONFIRMATION

GTECH Printing 4100 S. Frontage Road, Building 400 Lakeland, FL 33815

This letter constitutes an order by the TEXAS LOTTERY® for 16,200,000 ($\pm 2\%$) "FUN 5s" tickets (Game No. 1592) as fully described in Version 1 the "Working Papers" Dated April 4, 2014. You are hereby authorized to proceed with the production of the game tickets and performance of the associated support services according to the specifications contained herein and in accordance with the agreed upon "Texas Client Standards, Version 1.6, dated December 26, 2013."

We understand the price for $16,200,000 (\pm 2\%)$ tickets is as follows:

DESCRIPTION	QUANTITY	PRICE
8.00" x 4.00" Tickets	16,200,000	\$ 21.00/M
Full UV (\$.08 per sq inch per	\$ 2.56/M	
Multiple Scenes (2 Scenes @ 0.1425 per scene)		<u>\$.29/M</u>

TOTAL \$ 23.85/M

TEXAS LOTTERY Authorized Signatory:

Signature

Date

Acknowledged and Accepted: GTECH PRINTING

GTECH JOB #005885

Signature

TEXAS LOTTERY

Date



Amendment History

Date	Date Description		

÷,

EXHIBIT B-3

Whyte, Penelope

From:	Edwards, Fran <fran.edwards@lottery.state.tx.us></fran.edwards@lottery.state.tx.us>
Sent:	Friday, April 25, 2014 11:36 AM
То:	Whyte, Penelope
Cc:	Burrola, Jessica; Calderon, Sylvia; Bowersock, Dale; Gaddy, Walter
Subject:	RE: Draft Game 1592 Fun 5s- comments
Attachments:	1592 comments.pdf

Importance:

High

Good Morning Penny, Please see attached for some additional changes.

Thank you,

Fran Edwards Instant Product Specialist Texas Lottery Commission <u>fran.edwards@lottery.state.tx.us</u> 512-344-5147



TX #1592 "FUN 55" 8.0" x 4.0" R4

74

Representation of TICKET FRONT COVERED

Color fasor print is intended to approximate four color process. Pantone, metallics and/or fluorescent colors and use for content, Actual printed colors may vary.

PROCESS CYAN

REALE PROCESS MAGENTA

PROCESS BLACK

PROCESS YELLOW

SCENE 1

HEAD

CAME 3 Reveal a Collar Bill^o C^{2,0} symbol, win the PRIZE for that symbol. Revea o⁰ 5⁻⁰ symbol, win 5 times the PRIZE for that symbol.





TEXAS LOTTERY

CONFIDENTIAL

FUN 5s GAME 1592

VERSION 1 Page 1 PAPRIL 4 2014



TX #1592 "FUN 55" 8.0" x 4.0" R4 PROCESS CIAN PROCESS MAGENTA PROCESS YELLOW PROCESS BLACK

Representation of TICKET FRONT COVERED

Color taser print is intended to approximate four color process, Pantone, metallics and/or fluorescent colors and use for centent. Actual printed colors may vary.

-TEXOS WINENS SF 8 8 8 0 0 **ACTERNO** Recei two 957 crashed with the RAIVE Recei three 959 cymbols, with Others the PAIVE. Reveal three matching prize concernity with that amount, Reveal two matching prize amounts and ath (5) ^o cymbolywin 6 three that amounts PRIZE CAME 3 Reveal a Dollar Bill TO symbol, win the PRIZE for that syn a 5 Symbol, win 6 times the PRIZE for that symbols ol R -67 1 11 11/21 11 CAMEG Reveal three Dollar BILL OF a special in any one BOW across with CRIZE for that Row, Reveal three Dollar BILL OF a symbol send a 45 Paymbol In any one BOW across with 5 three Cho CRIZE for that BOW. ROW ROW 2 ٦. • h E WOR ROW 4 5 601 Reveal three Dollar Bill Openio **AGEND** cymbols in any one cowy column or diagonal Rescuir Patza in Fdizz box, Reveal a ^{or} 5^{or} symbol 1 1 441 In the 53BOX, win Office that PRIZE £. VOID . diete PERF -

SCENE 2

HEAD

TEXAS LOTTERY FUN 5s



TX #1592 "FUN 5s" 8.0" x 4.0" Fl4 PROCESS CYAN PROCESS MAGENTA PROCESS YELLOW PROCESS BLACK

Representation of TICKET FRONT COVERED

Color laser print is intended to approximate four color process, Pantone, metallics and/or fluorescent colors and use for content, Actual printed colors may vary.

SCENE 3 HEAD



Gome

FUN 5s

GTECH-000069

CONFIDENTIAL

GTECH

TX #1592 "FUN 5s" 8.0" x 4.0" R4 PROCESS CYAN PROCESS MAGENTA PROCESS YELLOW PROCESS BLACK

Representation of TICKET FRONT UNCOVERED

Color laser print is intended to approximate four color process, Pantone, metallics and/or fluorescent colors and use for content, Actual printed colors may vary.

Gome

FUN 5s

SCENE 1 HEAD

-TEXAS LOWERS 8 0 8 0 8 8 Reveal three matching prize amounts, win that amount, Reveal two matching prize amounts and o 5 ° cymbol, win 5 times, that amount, lices) (no "5" symbol win (ho Ril72, feved Gree 55" symbols, win 6 three the Ril72 GAME 3 \$5.00 \$500 \$10-00 2CH PRIZE FIVES FIV HUND TEN\$ \$100,000 5 1 DNE \$10.00 \$1,000 \$25.00 HUNTHOU IENS. ONE THOU THY FIV Reveal a Dollar Bill a C symbol, win the PRIZE for that symbol. Re a 4 5 symbol, win 5 times the PRIZE for that symbol. CAMES. (\$) × -GRAPES LEMON PUTOGLD COIN DIAMONO \$50-** \$15.00 \$500 \$10-\$25.00 FIFTY FIFTN FIVHUND TEN\$ THY FIV VOIDOOOOOOOO GAME The Reveal three Collar Bill (10) symbol in any ord 60W across, with PBIZE for that ROW. Reveal two Dollar BHQ to 2 scymbols and 00 5 Paymbol in any one ROW across, with 60th action 0.00 PRIZE for that ROW. PRIZE ALC: 080 \$75.00 NOR COINS BILL COINS BEVENTY FIV BILL $\Box O$ 00 ROW 2 GRAPES [0] \$10.00 BILL. COINS [31] FPI LI TENS 3 000 BILL U SHOE APPLE (S) COM \$15.00 COINS COIMS ROW FIFIN 5X BOX PRIZE 6 \$15.00 WTRMLN 101 \$1,000 ROW PEACE FIFTN BILL BILL ONE THOU S100 ROW Reveal three Dallar Bill 9 1010 ORANGE ONE HUND Gymbols in any one row, column Gy diagonel I.e., win PRIZE in PRIZE box Reveal at 5° cymbol Intho 5X(80X, win 5 times that PRIZE. PERF -



TX #1592 "FUN 55" 8.0" x 4.0" R4

Representation of

PROCESS CYAN PROCESS MAGENTA PROCESS YELLOW PROCESS BLACK

TICKET FRONT OVERLAY Color faser print is intended to approximate four color process, Pantone, metallics and/or fluorescent colors and use for content. Actual printed colors may vary

m

SCENE 1 HEAD



TEXAS LOTTERY



CONFIDENTIAL

EXHIBIT B-4

Whyte, Penelope

From:	Edwards, Fran < Fran.Edwards@lottery.state.tx.us>
Sent:	Wednesday, April 30, 2014 4:19 PM
То:	Gaddy, Walter; Whyte, Penelope
Cc:	Bowersock, Dale; Burrola, Jessica; Calderon, Sylvia; Edwards, Fran
Subject:	COMMENTS; GAME #1592 Fun 5's
Attachments:	1592 comments0001.pdf

Please see attached.

Thanks,

Fran Edwards Instant Product Specialist Texas Lottery Commission <u>fran.edwards@lottery.state.tx.us</u> 512-344-5147

Comments

TEXAS LOTTERY

Working Papers





Change name to FUN 5°s A add throughout papers

INSTANT GAME NUMBER #1592

APRIL 4, 2014

VERSION 1

GTECH PRINTING JOB NUMBER 005885



4100 S. FRONTAGE ROAD, BUILDING 400, LAKELAND, FL 33815 PHONE: 863-248-1400 FAX: 863-248-1452



CONFIDENTIAL

GTECH-000097



CONFIDENTIAL





· V			
adding	General:	GAME PARAMETERS	
A	 Players can win u structure. 	up to thirteen (13) times on a ticket in accordance with the approved prize	/

- 2) There is no relation between the position of a ticket in a pack and its status (winner or nonwinner). matching
- Adjacent non-winning tickets within a pack will not have identical Play and Prize Symbol 3) patterns. Two (2) tickets have identical Play and Prize Symbol patterns if they have the same Play and Prize Symbols in the same positions. MINK
- 4) No consecutive string of non-winning tickets will be greater than which is 2 times the overall odds for this game rounded to the nearest whole number.
- 5) The top Prize Symbol will appear on every ticket unless otherwise restricted by other parameters, play action or prize structure.
- 6) The number of winners in each pack will not exceed
- 7) The top Prize level (all prize tiers for that level combined) will be approximately evenly distributed throughout the delivered game.
- 8) No more than winners of \$25 to \$50 per pack.
- 9) No more than winner of \$75 and higher per pack.
- 10) The number of wins will be evenly distributed among the thirteen (13) play areas unless otherwise restricted by other parameters, play action or prize structure.

Game 2

Game 1

TEXAS LOTTERY

FUN 5s **GAME 1592**

APRIL 4, 2014

CONFIDENTIAL

GTECH-000100



Game 4

Game 5

- 32) Non-winning combinations will contain two (2) "BILL" Play Symbols in at least one (1) row, column or diagonal.
- 33) Non-winning combinations will contain at least four (4) "BILL" Play Symbols, at least one (1) of which is in the top horizontal row.
- 34) The "5" Play Symbol will only appear in the Benus Box on winning tickets that win 5X the associated prize. PRIZE
- 35) As dictated by the prize structure, the "5" Play Symbol will only appear in the Bobus Box when the player has won by getting three (3) "BILL" Play Symbols in a single row, column, or diagonal line.
- 36) Winning combinations will have only one occurrence of three (3) "BILL" Play Symbols in any row, column, or diagonal.

TEXAS LOTTERY

GAME 1592

EXHIBIT B-5

Whyte, Penelope

From:	Burrola, Jessica < Jessica.Burrola@lottery.state.tx.us>
Sent:	Monday, May 12, 2014 12:09 PM
То:	Gaddy, Walter; Whyte, Penelope
Cc:	Bowersock, Dale; Edwards, Fran; Calderon, Sylvia; Burrola, Jessica
Subject:	ADDL COMMENTS 2; GAME # 1592 Fun 5's
Attachments:	#1592 Additional Comments.pdf

Please see below and attached, for a few more comments



3) Game #5: Game parameters #33 and #34 (see below) mention the money bag symbol as only appearing on winning tickets. This would make it an easy target for micro-scratching since only the rest of game 5 would not have to be micro-scratched to know that it is a winner. We would prefer to have the money bag symbol appear on non-winning tickets, too.



Jessica Burrola | Instant Product Specialist| Texas Lottery Commission P.O. Box 16630 | Austin, TX 78761-6630 | 512-344-5125 jessica.burrola@lottery.state.tx.us

ditional comments **GTECH** SCENE 1 TX #1592 PROCESS CYAN FUN 5's HEAD PROCESS MAGENTA 8.0° x 4.0" PROCESS YELLOW R10 PROCESS BLACK Representation of TIEX AS DOMARN TICKET FRONT UNCOVERED 0 0 1 . Color laser print is Intended to approximate four color process, Pantone, metallics and/or fluorescent colors and use for content. Actual printed colors may vary. ET IS Reveal two " 5" symbole, win the RRIZE Reveal three "5" symbole, win Stimeothe PRIZE $\begin{array}{l} Reveal three matching prize amounts, with that a mounts, Reveal two instabiling prize amounts and q ^{12} <math>{}_{\rm S}^{\rm O}$ cymbol, with 5 times that amount 4 ELUIS ELUIS V 3 \$5.00 \$500 FIVHUND \$10.00 15 EN PRIZE FIVES TENS \$100,000 5 1 ONE \$1,000 ONE THOU \$10.00 \$25.00 THY FIV HUNTHOU TENS CAMES Revela 9 5 45 COUN LEMON POTOGLO DIAMOND CRAPES \$50.00 \$15.00 \$10-00 \$500 \$25.00 THY FN FIFIY FETN FIV HUND TENS VOIDODODODODO GAME 4 Reveal three " is "Psymbole linengend ROW across, win PRIZE for that ROW. Reveal two " is "Psymbole and a start" a "Psymbol in ruy one Row across, with 6 times the PRIZE for that ROW. PRIZE 5 5 q \$75.00 SEVENTY FIN 8g MIN 3 THA 5 2 MOL CLOVER (S) CON CRAPES THO \$10.00 TENS 5 RUW3 SVN U SHOE APPLE \$15.00 ONE FIFTN 5X BOX PRIZE WTRMEN APPLE PEACE U SHOE \$15.00 \$1,000 ONE THOU ROW FFTN S MOR LOVER STAR \$100 Brotal) three "5" Cymbol in any Cro row, coumn or Chaptal, win Calze in Phize box Ravari (1 Money Bro#29 cymbol in The Statesty win Stimes that Phizes ONE HUND **BAMES** VOID PERF

TEXAS LOTTERY FUN 5's GAME 1592 VERSION 1 Page 4 APRIL 4, 2014



PRIZE SYMBOLS

\$5.00	\$10.00	\$15.00	\$25.00	\$50.00
FIVE\$	TENS	FIFTN	TWY FIV	FIFTY
\$75.00	\$100	\$500	\$1,000	\$100,000
SEVENTY FIV	DNE HUND	FIV HUND	ONE THOU	HUN THOU

VALIDATION NUMBER

0123456789 Void GAME/PACK/TICKET NUMBER

0123456789 = VOID

1592-V01001-001(075) ■

BACK OF TICKET



CONFIDENTIAL







Game 4



Game 5

- Non-winning combinations will contain two (2) "5" Play Symbols in at least one (1) row, column or diagonal.
- 32) Non-winning combinations will contain at least four (4) "5" Play Symbols, at least one (1) of which is in the top horizontal row.
- 33) The "MONEY BAG" Play Symbol will only appear in the 5X Box on winning tickets that win 5X the associated PRIZE.
- 34) As dictated by the prize structure, the "MONEY BAG" Play Symbol will only appear in the 5X Box when the player has won by getting three (3) "5" Play Symbols in a single row, column, or diagonal line.
- 35) Winning combinations will have only one occurrence of three (3) "5" Play Symbols in any row, column, or diagonal.

Im bol needs to appear on non-winning ticktsabo. TEXAS LOTTERY FUN 5's **GAME 1592** VERSION 1 Page 16 APRIL 4, 2014

CONFIDENTIAL

GTECH-000157

EXHIBIT B-6

From:	Burrola, Jessica <jessica.burrola@lottery.state.tx.us></jessica.burrola@lottery.state.tx.us>
Sent:	Thursday, May 15, 2014 2:28 PM
То:	Whyte, Penelope; Thurston, Laura M
Cc:	Bowersock, Dale; Edwards, Fran; Calderon, Sylvia; Gaddy, Walter; Burrola, Jessica
Subject:	Approved: Game 1652 Fun's
Attachments:	#1652 Fun 5's.pdf

The working papers for Game #1652 Fun 5's have been approved. Please see attached.

Please forward covered, uncovered, ticket back and an executed PDF of the papers.

Thank you,



Jessica Burrola | Instant Product Specialist| Texas Lottery Commission P.O. Box 16630 | Austin, TX 78761-6630 | 512-344-5125 jessica.burrola@lottery.state.tx.us

TEXAS LOTTERY

 $\gamma = \alpha$

Working Papers

"FUN 5's"



INSTANT GAME NUMBER #1592

APRIL 4, 2014

VERSION 1

GTECH PRINTING JOB NUMBER 005885



4100 S. FRONTAGE ROAD, BUILDING 400, LAKELAND, FL 33815 PHONE: 863-248-1400 FAX: 863-248-1452

GTECH-000833

TEXAS LOTTERY

WORKING PAPERS

FOR

"FUN 5's"

(INSTANT GAME NO. 1592)

TABLE OF CONTENTS

Front Ticket Scenes 1, 2, 3 (covered)	
Front Ticket (uncovered)	
Front Ticket (overlay)	
Ticket Back	6
Prize Structure	7-8
Programming Images	9
Ticket Image	10
Pack Insert1	1-12
Detailed Specifications 1	3-14
Game Parameters1	5-16
Delivery Schedule	17
Order Confirmation	18
Amendment History	19




Representation of TICKET FRONT COVERED

Color laser print is intended to approximate four color process, Pantone, metallics and/or fluorescent colors and use for content. Actual printed colors may vary.

SCENE 1 HEAD





PROCESS CYAN PROCESS MAGENTA PROCESS YELLOW PROCESS BLACK

Representation of TICKET FRONT COVERED

Color laser print is intended to approximate four color process, Pantone, metallics and/or fluorescent colors and use for content. Actual printed colors may vary.

SCENE 2 HEAD







Representation of TICKET FRONT COVERED

Color laser print is intended to approximate four color process, Pantone, metallics and/or fluorescent colors and use for content. Actual printed colors may vary.

SCENE 3 HEAD





PROCESS CYAN PROCESS MAGENTA PROCESS YELLOW PROCESS BLACK

Representation of TICKET FRONT UNCOVERED

Color laser print is intended to approximate four color process, Pantone, metallics and/or fluorescent colors and use for content. Actual printed colors may vary.

SCENE 1 HEAD



FUN 5's

Page 4

GTECH-000838



PROCESS CYAN PROCESS MAGENTA PROCESS YELLOW PROCESS BLACK

Representation of TICKET FRONT OVERLAY

Color laser print is intended to approximate four color process, Pantone, metallics and/or fluorescent colors and use for content. Actual printed colors may vary.

SCENE 1 HEAD



— PERF

PERF -

FUN 5's

GTECH-000839



GTECH-000841

MAX:
Minimhas of TOTAL
4
1 \$5
2 \$10
1 \$10
3 \$15
2 \$15
1 \$15
1 \$25
1 \$25
3 \$25
5 \$25
1 \$50
1 \$50
4 \$50
10 \$50
1 \$75
1 \$75
13 \$75
1 \$100
4 \$100
13 \$100
1 \$500
1 \$500
13 \$500
13 \$1,000
1 \$1,000
1 \$100,000
1 in



4,297,336		
16	1,012,500,00	5100,000
135	120,000.00	S1,000
810	20,000.00	\$500
10,800	1,500.00	5100
17,550	923.08	\$75
216,000	75.00	\$50
380,025	42.63	\$25
648,000	25.00	S15
1,080,000	15.00	S10
1,944,000	8,33	55

TEXAS LOTTLERY COMMISSION *FUN \$'s* CAME No. 1592 PRIZE STRUCTURE April 18, 2014 - Version 3

Consolidated odds are 1 in:

REDACTED

REDACTED





PLAY SYMBOLS





FIXED SYMBOLS

PRIZE

PRIZE SYMBOLS

\$5.00	\$10-00	\$15.00	\$25.00	\$50-00
FIVES	TENS	FIFTN	TWY FIV	FIFTY
\$75.00	\$100	\$500	\$1,000	\$100,000
SEVENTY FIV	ONE HUND	FIV HUND	INE THOU	HUN THOU

VALIDATION NUMBER

0123456789 VOID

GAME/PACK/TICKET NUMBER

0123456789 • VOID

1245-A01007-007(022)

FUN 5's

BACK OF TICKET

- 医部份检索剂



Page 9

TEXAS LOTTERY



TX #1592 "FUN 5's" 8.0" x 4.0" R3 Representation of TICKET IMAGE





VERSION 1



HEAD



4"

G T	LCII
TX #1592	
"FUN 5's"	
R3	PROCESS BLACK
Representation of	
PACK INSERT BAG	CK



4"

DETAILED SPECIFICATIONS:

GTECH Job Number:	005885
Game Number:	1592
Order Quantity:	$16,200,000 \pm 2\%$
Ticket Size:	8.0" x 4.0" vertical
Price Point:	\$5
Pack Size:	75
Orientation of Tickets:	Vertical
Number of Scenes:	3 – alternating in a pack. The first ticket of each pack may start on any scene.
Stock:	10-point virgin/recyclable C-1-S Plus
Play Areas:	Five (5) on face of ticket
Top Prize:	\$100,000
UPC Symbol:	8 17522 01592 0
Benday:	Yes - Different versions of security patterns will be printed in this game on all play areas. The must be unique for each ticket on a press repeat. The fingerprint lines should be to detect intrusion if the play symbols are altered.

	Note: This over the or ticket.	will not be printed the ticket numbering area in the front of the
Game Type:	Omissions	
Inks - Face of Ticket: (Overprint & Graphics)	Four (4) colors:	Black Cyan Magenta Yellow
Front Imaging Colors:	One (1) color:	Black
Inks - Back of Ticket:	One (1) color:	Black

Base Coat (Primer):	printed with a base c	n the game play and VIRN areas will be oat beneath the imaging on the front of the t appear in the area or in the ticket
		will be based on the Primer samples as ient Standards, Version 1.6.
Seal/Release Coat:	Special clear, smooth sect on the ticket front.	urity coat covering all variable game data
Gloss UV Coating:	A full bleed gloss coat cov	vering the entire ticket front.
Game Type:	Play Style: Theme: Prize Type: Product Name: Size Description: Color Description: Play Feature Description:	 (22) Multiple Games (15) Other (01) Cash FUN5S (04) 4 X 8 (25) Alternating Scenes (03) 5X
Special Instructions:	None	

GAME PARAMETERS

General:

- 1) Players can win up to thirteen (13) times on a ticket in accordance with the approved prize structure.
- 2) Adjacent non-winning tickets within a pack will not have matching Play and Prize Symbol patterns. Two (2) tickets have matching Play and Prize Symbol patterns if they have the same Play and Prize Symbols in the same positions.
- 3) No consecutive string of non-winning tickets will be greater than which is 2 times the overall odds for this game rounded to the nearest whole number.
- The top Prize Symbol will appear on every ticket unless otherwise restricted by other parameters, play action or prize structure.
- 5) The number of winners in each pack will not exceed
- 6) The top Prize level (all prize tiers for that level combined) will be approximately evenly distributed throughout the delivered game.
- 7) No more than winners of \$25 to \$50 per pack.
- 8) No more than winner of \$75 and higher per pack.
- 9) The number of wins will be evenly distributed among the thirteen (13) play areas unless otherwise restricted by other parameters, play action or prize structure.

Game 1		
Game 2		

REDACTED

Game 3
Game 4

Game 5

- 31) Non-winning combinations will contain two (2) "5" Play Symbols in at least one (1) row, column or diagonal.
- 32) Non-winning combinations will contain at least four (4) "5" Play Symbols, at least one (1) of which is in the top horizontal row.
- 33) As dictated by the prize structure, the "MONEY BAG" Play Symbol will appear in the 5X Box when the player has won by getting three (3) "5" Play Symbols in a single row, column, or diagonal line.
- 34) Winning combinations will have only one occurrence of three (3) "5" Play Symbols in any row, column, or diagonal.
- 35) The "MONEY BAG" Play Symbol will appear in the 5X Box in approximately 25% of the tickets with non-winning combinations in GAME 5.

VERSION 1

Page 16

Delivery Schedule:

GTECH Printing will generate $16,200,000 (\pm 2\%)$ tickets according to the schedule detailed below.

Ship Printed Tickets	09/22/14	
Delivery of Tickets on or before	09/24/14	
Tentative Start of Sales	10/27/14	

**This game must print 09/01/14 or later

ORDER CONFIRMATION

GTECH Printing 4100 S. Frontage Road, Building 400 Lakeland, FL 33815

This letter constitutes an order by the TEXAS LOTTERY® for 16,200,000 ($\pm 2\%$) "FUN 5's" tickets (Game No. 1592) as fully described in Version 1 the "Working Papers" Dated April 4, 2014. You are hereby authorized to proceed with the production of the game tickets and performance of the associated support services according to the specifications contained herein and in accordance with the agreed upon "Texas Client Standards, Version 1.6, dated December 26, 2013."

We understand the price for $16,200,000 (\pm 2\%)$ tickets is as follows:

DESCRIPTION	QUANTITY	PRICE
8.00" x 4.00" Tickets	16,200,000	\$ 21.00/M
Full UV (\$.08 per sq inch per	r thousand)	\$ 2.56/M
Multiple Scenes (2 Scenes @	0.1425 per scene)	\$.29/M

TOTAL

\$ 23.85/M

TEXAS LOTTERY Authorized Signatory:

Acknowledged and Accepted:

GTECH PRINTING

Signature

FUN 5's

Date

05 for RI Teap frint

GTECH JOB #005885

Signature

Date

VERSION 1 Page 18

APRIL 4, 2014



Amendment History

Amendment	Date	Description
-		

EXHIBIT C

1

CAUSE NO.	D-1-GN-14-005114
JAMES STEELE, et al.,) IN THE DISTRICT COURT
Plaintiffs,	
vs.)) TRAVIS COUNTY, TEXAS
GTECH CORPORATION,	
Defendant.)) 201ST JUDICIAL DISTRICT

ORAL AND VIDEOTAPED DEPOSITION OF

DALE BOWERSOCK

JULY 30, 2015

ORAL AND VIDEOTAPED DEPOSITION OF DALE BOWERSOCK, produced as a witness at the instance of the PLAINTIFFS and duly sworn, was taken in the above-styled and numbered cause on the 30th day of July, 2015, from 9:32 a.m. to 3:24 p.m. before TEENA L. HARMON-DAVIS, a Certified Shorthand Reporter in and for the State of Texas, reported by machine shorthand at the Office of the Attorney General, 300 West 15th Street, 11th Floor, Austin, Texas, pursuant to the Texas Rules of Civil Procedure and/or the provisions stated on the record or attached hereto.

129 1 put this together? 2 Α. With the multiple comments, I never knew what management was going to decide to do, so I just got 3 4 proactive, just to get information ready for if management asked for it. 5 6 Ο. Did you believe that management might ask that the game be called on that day, on September 5th? 7 8 Oh, I didn't know. But, you know, with that Α. 9 much activity I just figured I'd be ready in case they 10 asked. 11 Did anyone request that you do that? 0. 12 Α. No. 13 And let's talk about that. Did you have 0. 14 discussions with management? When you say management are 15 you talking about Mr. Tirloni, Mr. Anger, and Mr. Grief? 16 It would be Mr. Grief would -- is the only one Α. 17 who's authorized to close a game. 18 Okay. So if -- if someone's going to decide to 0. 19 call a game or close a game, it has to be Mr. Grief? 20 For this type of reason, for a business reason. Α. If it's a mature game it doesn't have to go all the way 21 22 up to Mr. Grief. 23 So to call a game early for reasons Ο. Got ya. 24 other than we --25 Α. Typical --

7/30/2015

130 1 0. -- we've sold all the tickets --2 Α. Yeah. -- or all the prizes have been won, typically 3 Ο. 4 Mr. Grief is the only one who can make that business 5 call? 6 Α. Correct. 7 And -- and you wanted Ms. Burrola to prepare Ο. 8 the paperwork necessary to shut the game down on 9 September 5th if management decided to call the game? 10 Α. If --11 MR. MINDELL: Objection, form. 12 I'm sorry. If management were to call and ask Α. me for information, at least we had it in hand. 13 14 All right. And -- and what she put together, Q. Game call notice. Is that page 5751? 15 it says: 16 Uh-huh. Correct. Α. 17 And what is this? What -- what -- who gets 0. this notice? 18 19 Α. This is the information we then send to the advertising agency to put in, like, the publications, the 20 newspapers and stuff like this, when -- whenever we're 21 22 doing a game closure, and they put -- they do their 23 public announcements, then it's also used -- the dates 24 would be used on our website so that when we put it on 25 our website, what the date close -- the close dates are.

158 so I think then they went out and asked the LSRs what 1 2 they were hearing. Okay. At least by the time of your e-mails 3 0. 4 back and forth with Ms. Matson about the four other 5 tickets, by then was it your impression that GTECH had 6 heard complaints and were aware of the complaints about 7 the Fun 5's ticket? 8 Α. Again, I'm --9 MR. BROUGHTON: Objection, form. 10 Again, I'm not sure of what date they started Α. telling us that they had started hearing things. 11 I'm not positive. 12 13 Ο. All right. Did -- in these meetings with the 14 GTECH personnel, these weekly meetings, was it ever discussed whether or not the game should be called? 15 16 It's not a GTECH decision, so we don't --Α. 17 0. I understand. But were there any discussions 18 with them about calling the game or the mechanics of it 19 or whether it was advisable to do so or not? 20 Not that I recall. Α. 21 You'll be happy to know I'm skipping a bunch of 0. 22 these for you. 23 I'm seeing that and I'm appreciating each one. Α. 24 I'm saving -- I'm saving them for someone else. Ο. 25 Α. I still think I got the bulk.

í

193 CAUSE NO. D-1-GN-14-005114 1 IN THE DISTRICT COURT OF 2 JAMES STEELE, et al.,) 3 Plaintiffs, TRAVIS COUNTY, TEXAS 4 vs. 5 GTECH CORPORATION, 201ST JUDICIAL DISTRICT Defendant. 6 7 REPORTER'S CERTIFICATION DEPOSITION OF DALE BOWERSOCK 8 JULY 30, 2015 I, TEENA L. HARMON-DAVIS, Certified Shorthand 9 10 Reporter in and for the State of Texas, hereby certify to the following: 11 That the witness, DALE BOWERSOCK, was duly sworn by 12 13 me and that the transcript of the oral deposition is a 14 true record of the testimony given by the witness; That the deposition transcript was submitted on 15 to the witness or to the attorney 16 for the witness for examination, signature and return to 17 me by 18 That the amount of time used by each party at the 19 deposition is as follows: 20 Mr. LaGarde - 3 hours:57 minutes 21 Ms. Burgess - 0 hours:01 minute Mr. Mindell - 0 hours:00 minutes 22 Mr. Broughton - 0 hours:00 minutes 23 Mr. Scott - 0 hours:00 minutes Mr. Wells - 0 hours:00 minutes Mr. Cox - 0 hours:00 minutes 24 That pursuant to information given to me at the time 25

194 said testimony was taken, the following includes counsel 1 2 for all parties of record: 3 Mr. Richard L. LaGarde, Attorney for the Plaintiffs Mr. Kenneth E. Broughton, Attorney for the Defendant 4 Mr. Ryan S. Mindell, Attorney for Texas Lottery Commission 5 Mr. Leroy B. Scott, Attorney for Intervenor Kenyatta Jacobs Mr. Clinton E. Wells, Jr., Attorney for Intervenors 6 Boghosian, Wilson, and Bambico 7 Ms. Christine Burgess, Attorney for Intervenors Hiatt, et al. Mr. Leonard E. Cox, Attorney for Intervenors 8 Yarbrough and Clark 9 10 I further certify that I am neither counsel for, 11 related to, nor employed by any of the parties or 12 attorneys in the action in which this proceeding was 13 taken, and further that I am not financially or otherwise 14 interested in the outcome of the action. 15 Further certification requirements pursuant to Rule 16 203 of TRCP will be certified to after they have 17 occurred. Certified to by me this day of 18 19 2015. 20 21 TEENA/L: HARMON-DAVIS 22 Texas CSR No. 4900 My Commission Expires: 12/31/2016 23 U.S. LEGAL SUPPORT, INC. Firm Registration No. 341 24 701 Brazos, Suite 380 Austin, Texas 78701 25 (512) 292-4249 or (800) 734-4995

195 1 FURTHER CERTIFICATION UNDER RULE 203 TRCP The original deposition was/was not returned to the 2 -EM DDI deposition officer on C 3 4 If returned, the attached Changes and Signature page 5 contains any changes and the reasons therefor; 6 If returned, the original deposition was delivered SUMAL 7 , Custodial Attorney; to is the charge to the Plaintiffs for 8 That 9 preparing the original deposition transcript and any 10 copies of exhibits; 11 That the deposition was delivered in accordance with 12 Rule 203.3, and that a copy of this certificate was 13 served on all parties shown herein on and filed with the 14 Clerk. Certified to by me this $\frac{25}{2}$ day of September 15 16 2015. 17 BRAC 18 19 HARMON TEENA L. DAVIS Texas CSR No. 4900 20 My Commission Expires: 12/31/2016 21 U.S. LEGAL SUPPORT, INC. Firm Registration No. 341 22 Austin Centre 701 Brazos, Suite 380 23 Austin, Texas 78701 (512) 292-4249 or (800) 734-4995 24 25

EXHIBIT D

1	CAUSE NO. D-1-GN-14-005114	
2	JAMES STEELE, et al.,) IN THE DISTRICT COURT Plaintiffs,)	
3		
4		
5	VS.) TRAVIS COUNTY, TEXAS	
6		
7		
8	GTECH CORPORATION,) Defendant) 201st JUDICIAL DISTRICT	
9	* * * * * * * * * * * * * * * * * * * *	
10	* * * * * * * * * * * * * * * * * * * *	
11	ORAL AND VIDEOTAPED DEPOSITION OF	
12	GARY GRIEF	
13	SEPTEMBER 25, 2015	
14	* * * * * * * * * * * * * * * * * * * *	
	ADAL AND VIDEOMADED DEDAGIETON OF GADY OFTER	
15	ORAL AND VIDEOTAPED DEPOSITION OF GARY GRIEF,	
16	produced as a witness at the instance of the Plaintiffs,	
17	and duly sworn, was taken in the above-styled and	
18	numbered cause on the 25th day of September, 2015, from	
19	9:39 a.m. to 11:35 a.m., before Christi Sanford, CSR in	
20	and for the State of Texas, Registered Professional	
21	Reporter and Certified Realtime Reporter, reported by	
22	machine shorthand, at the offices of the Attorney	
23	General, 300 West 15th Street, 7th Floor, Austin, Texas,	
24	pursuant to the Texas Rules of Civil Procedure and the	
25	provisions stated on the record or attached hereto.	

1 Α. Yes. 2 Ο. Fair enough. When, if ever, did you consider 3 shutting this game down? I couldn't begin to tell you the date. 4 Α. Let's assume the record shows that -- that the 5 Ο. actual paperwork that had been prepared on September 5th 6 7 was sent out on October 21st of last year. Does that sound familiar to you? 8 Fair enough. 9 Α. 10 0. What prompted you to give the decision? As I understand, you're the decider on -- on shutting games 11 What prompted you on October 21 to shut the game 12 down. 13 down as opposed to doing so on September the 5th? 14 I don't think there was any one factor that led Α. 15 to that. It was a culmination of events leading up to 16 that. 17 What sort of events were those? Ο. 18 Α. Discussions with legislators, discussions with 19 my staff. Those would probably be the two biggest 20 factors. 21 And when you say discussions with the Ο. 2.2 legislators, who -- who was it in the legislature that had discussions with you? 23 24 Α. I recall we had a meeting with Representative Anderson, a couple of others. I -- I can't remember, 25

Gary Grief

1	CAUSE NO. D-1-GN-14-005114	
2	JAMES STEELE, ET AL.,) IN THE DISTRICT COURT Plaintiffs,)	
3		
4	· · · · · · · · · · · · · · · · · · ·	
5	VS.) TRAVIS COUNTY, TEXAS	
6		
7		
8	GTECH CORPORATION,) Defendant) 201st JUDICIAL DISTRICT	
9	******************	
10	REPORTER'S CERTIFICATION	
11	DEPOSITION OF GARY GRIEF	
12	SEPTEMBER 25, 2015	
13	**********************	
14	I, Christi Sanford, CSR, RPR, CRR, Certified	
15	Shorthand Reporter in and for the state of Texas, hereby	
16	certify to the following:	
17	That the witness, GARY GRIEF, was duly sworn by	
18	the officer and that the transcript of the oral	
19	deposition is a true record of the testimony given by	
20	the witness;	
21	That the deposition transcript/errata sheet was	
22	submitted on <u>10.0815</u> to the witness or to	
23	the attorney for the witness for examination, signature	
24	and return to the officer by <u><u>N.C.J.15</u>;</u>	
25	That the amount of time used by each party at	

Gary Grief

1 the deposition is as follows: 2 Richard L. LaGarde: 1 hour, 26 minutes Kenneth E. Broughton: 0 minutes Rvan Mindell: 0 minutes 3 That pursuant to information given to the 4 5 deposition officer at the time said testimony was taken, the following includes all parties of record: 6 7 Richard L. LaGarde, Mary Ellis LaGarde, Manfred Sternberg, Attorneys for Plaintiffs 8 Kenneth E. Broughton, Attorney for Defendant GTECH 9 Corporation Ryan Mindell, Robert Forrest Biard, Deanne F. 10 Rienstra, Attorneys for Texas Lottery Commission 11 Lessie Fitzpatrick, Attorney for Intervenors Hiatt, 12 et al. 13 Leonard Cox, Attorney for Intervenors Yarbrough and Clark 14 Clinton Wells, Attorney for Intervenors Boghosian, 15 Wilson and Bambico 16 17 I further certify that I am neither counsel for, related to, nor employed by any of the parties in 18 the action in which this proceeding was taken, and 19 further that I am not financially or otherwise 20 21 interested in the outcome of the action. 22 Further certification requirements pursuant to 23 Rule 203 of TRCP will be certified to after they have occurred. 24 25

1	Certified to by me this 7th day of October,
2	2015.
3	as n îi
4	Christi Satlard
5	Christi Sanford, CSR, CRR, RPR
6	Texas Certification No. 6720 Certification Expires 12/31/15
7	Kim Tindall & Associates
8	Firm Registration No. 631 16414 San Pedro, Suite 900
9	San Antonio, Texas 78232 (210) 697-3400
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21 22	
22	
23 24	
24	

Gary Grief

Γ

1	FURTHER CERTIFICATION UNDER RULE 203 TRCP
2	DEPOSITION OF GARY GRIEF
3	SEPTEMBER 25, 2015
4	The original deposition was was not returned to the
5	deposition officer signed/unsigned on;
6	If returned, the attached Changes and Signature page
7	contains any changes and the reasons therefor;
8	If returned, the original deposition was delivered
9	to Richard L. LaGarde, Custodial Attorney;
10	That \$
11	Plaintiff(s) for preparing the original deposition
12	transcript and any copies of exhibits;
13	That the deposition was delivered in accordance with
14	Rule 203.3, and that a copy of this certificate was
15	served on all parties shown herein on $\underline{N-R-15}$, and
	filed with the Clerk.
16	THE WICH CHE CLEIK.
16 17	Certified to by me this 1875 day of 1000 ,
17	Certified to by me this <u>1976</u> day of <u>Nov.</u> , 2015.
17 18	Certified to by me this <u>1876</u> day of <u>Nov.</u> , 2015.
17 18 19	Certified to by me this <u>1876</u> day of <u>Non.</u> , 2015. By BW Christi Sanford, CSR, CRR, RPR Texas Certification No. 6720
17 18 19 20	Certified to by me this <u>1976</u> day of <u>Mon.</u> , 2015. By BW Christi Sanford, CSR, CRR, RPR Texas Certification No. 6720 Certification Expires: 12/31/15
17 18 19 20 21	Certified to by me this <u>Stb</u> day of <u>Mon.</u> , 2015. By BW Christi Sanford, CSR, CRR, RPR Texas Certification No. 6720 Certification Expires: 12/31/15 Kim Tindall & Associates Firm Registration No. 631
17 18 19 20 21 22	Certified to by me this <u>Sto</u> day of <u>Mon.</u> , 2015. By BW Christi Sanford, CSR, CRR, RPR Texas Certification No. 6720 Certification Expires: 12/31/15 Kim Tindall & Associates

EXHIBIT E

4SBH 594

CAUSE NO. DC-14-14838

DAWN NETTLES,	
Plaintiff	
VS.	
GTECH CORPORATION,	
Defendant	

IN THE DISTRICT COURT OF DALLAS COUNTY, TEXAS 160th JUDICIAL DISTRICT

<u>ORDER</u>

\$ \$ \$ \$ \$ \$ \$ \$

On December 4, 2015, 2015, the Court heard Defendant GTECH

Corporation's First Amended Plea to the Jurisdiction (the "Motion"), in the above-numbered and styled cause. After considering the Motion, Plaintiff's Response, Defendant's Reply, the pleadings on file and the arguments of counsel, the Court grants the Motion.

IT IS THEREFORE ORDERED that Plaintiff causes of action brought against

GTECH, as alleged in Plaintiffs Third Amended Original Petition, are hereby

dismissed. The Court awards GTECH judgment for its taxable costs of court against Plaintiff Dawn Nettles.

Signed December <u>15</u>, 2015. JIM FORDAN, JUDGE 160TH DISTRICT COURT