

**IN THE CIRCUIT COURT OF THE ERROR! REFERENCE SOURCE NOT FOUND.  
JUDICIAL CIRCUIT  
BESSEMER DIVISION**

STATE OF ALABAMA

*Plaintiff,*

v.

JAY'S CHARITY BINGO,  
MUNEER MUTE MOFLIHI ZINDANI,  
HASSAN NOMAN ALSHOHATEE,  
BENJAMIN 2012, LLC,  
CITY OF LIPSCOMB,

*Defendant(s).*

Civil Action No.

2024-900879

**FILED IN OFFICE**

NOV 20 2024

CIRCUIT CLERK  
BESSEMER DIVISION  
JEFFERSON COUNTY, ALABAMA

**EX PARTE TEMPORARY RESTRAINING ORDER WITH ASSET FREEZE,  
OTHER EQUITABLE RELIEF, AND ORDER TO SHOW CAUSE WHY A  
PRELIMINARY INJUNCTION SHOULD NOT ISSUE**

The State of Alabama, by and through Attorney General Steve Marshall, has filed an *Ex Parte Motion for Temporary Restraining Order and Order to Show Cause Why A Preliminary Injunction Should Not Issue* pursuant to the prohibitions against public nuisances, Ala. Code § 6-5-120, *et seq.*, and Alabama Rule of Civil Procedure 65(b), for a temporary restraining order, asset freeze, other equitable relief, and an order for the following Defendants to show cause why a preliminary injunction should not be issued in this matter:

6. Defendant **Jay's Charity Bingo**, an Alabama business with a principal place of business at 6405 Avenue K, Lipscomb, Alabama.

7. Defendant **Muneer Mutee Moflihi Zindani** owns and/or operates Jay's Charity Bingo located at 6405 Avenue K, Lipscomb, Alabama.

8. Defendant **Hassan Noman Alshohatee** owns and/or operates Jay's Charity Bingo located at 6405 Avenue K, Lipscomb, Alabama.

9. Defendant **Benjamin 2012, LLC**, the property owner of the property located at 6405 Venue K, Lipscomb, Alabama, receives illegal gambling proceeds as payment for the lease/rental agreement with Jay's Charity Bingo and has a registered business address of 2107 5<sup>th</sup> Avenue N, Ste. 100, Birmingham, Alabama.

10. Defendant **City of Lipscomb** is **Error! Reference source not found.** with an address of 5512 Avenue H, Bessemer, Alabama.

### **FINDINGS OF FACT**

The court, having considered the Complaint, motion, affidavits, and exhibits filed in support thereof, and being otherwise advised, hereby finds that:

1. This court has jurisdiction over the subject matter of this case, and there is good cause to believe that it will have jurisdiction over the parties.

2. Venue in this circuit is proper.

3. There is good cause to believe that Defendants have engaged in, are currently engaging in, or are likely to engage in acts or practices that violate Alabama's gambling statutes, creating a per se public nuisance, and that the Plaintiff is therefore likely to prevail on the merits of this action.

4. There is good cause to believe that immediate and irreparable harm will result from the Defendants' ongoing violations of Alabama's gambling statutes unless the Defendants are restrained and enjoined by order of this Court.

5. There is also good cause to believe that immediate and irreparable damage to the State's ability to safely and expeditiously enjoin and/or remove the machines and enforce the laws of the state if the Defendants were provided with advance notice of this order. Therefore, there is good cause for relieving the State of Alabama of the duty to provide Defendants with prior notice of the State's complaint and motion.

6. There is also good cause to believe that immediate and irreparable damage to the State's interests concerning the seizure and confiscation of the illegal bets and stakes – contraband under Alabama law – that would result occur from the Defendants' sale, transfer, or other disposition or concealment of their assets or records if the Defendants were provided with advance notice of this order. Therefore, there is good cause for relieving the State of Alabama of the duty to provide Defendants with prior notice of the State's complaint and motion.

7. There is good cause for issuing this order pursuant to Alabama Rule of Civil Procedure 65(b).

8. Weighing the equities and considering the State's likelihood of ultimate success on the merits, a temporary restraining order with an asset freeze, other equitable relief, and order to show cause why a preliminary injunction should not issue serves the public interest.

9. No security is required of the State of Alabama or of an officer or agency thereof for the issuance of a temporary restraining order. Ala. R. Civ. P. 65(c).

### **DEFINITIONS**

For the purpose of this Temporary Restraining Order ("Order"), the following definitions shall apply:

1. **“Asset” or “Assets”** means any legal or equitable interest in, right to, or claim to, any real or personal property, including, but not limited to, “goods,” “instruments,” “equipment,” “fixtures,” “general intangibles,” “inventory,” “checks,” or “notes,” (as these terms are defined in the Uniform Commercial Code), lines of credit, chattels, leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, and all cash, wherever located.

2. **“Defendant(s)”** means all the Defendants, individually, collectively, or in any combination.

3. **“Document(s)”** is equal in scope and synonymous in meaning to the usage of the term in Alabama Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations stored in any medium from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

4. **“Financial Institution”** means any bank, savings and loan institution, credit union, or any financial depository of any kind, including, but not limited to, any brokerage house, trustee, broker-dealer, escrow agent, title company, commodity trading company, or precious metal dealer.

5. **“Person(s)”** means a natural person, organization, or other legal entity, including a corporation, limited liability company, partnership, sole proprietorship, association, cooperative, or any other group or combination acting as an entity.

6. **“Plaintiff”** means the State of Alabama.

## **I. PROHIBITED BUSINESS ACTIVITIES**

**IT IS ORDERED** that Defendants, and their officers, agents, servants, employees, attorneys, successors, and all other persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, are hereby temporarily restrained and enjoined from:

A. Operating and using the illegal gambling facility known as **Error! Reference source not found.** located at 6504 Avenue K, Lipscomb, Jefferson County, Alabama (hereinafter “facility”);

B. Offering illegal slot machines and/or gambling devices (hereinafter “machines” collectively) at the facility;

C. Receiving any monies in relation to the machines and activity at the facility;

D. Distributing any monies related to or received from the machines and activity at the facility;

E. Transporting or providing any additional machines to the facility or to any other location in the State of Alabama;

F. Violating, or assisting others in violating, Alabama’s gambling laws, Sections 13A-12-20, et seq.

## **II. ASSET FREEZE**

**IT IS FURTHER ORDERED** that Defendants, and their officers, agents, servants, employees, attorneys, successors, and all other persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting

directly or through any trust, corporation, subsidiary, division, or other device, except as provided herein, as stipulated by the parties, or as directed by further order of the Court, are hereby temporarily restrained and enjoined from:

A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any funds, real or personal property, accounts, contracts, shares of stock, lists of consumer names, or other Assets, or any interest therein, wherever located, including outside the United States, that are:

1. Owned, controlled or held by, in whole or in part, for the benefit of, or subject to access by, or belonging to, any Defendant;
2. In the actual or constructive possession of any Defendant; or
3. In the actual or constructive possession of, or owned, controlled, or held by, or subject to access by, or belonging to, any other corporation, partnership, trust, or any other entity directly or indirectly owned, managed, or controlled by, or under common control with, any Defendant, including, but not limited to, any Assets held by or for any Defendant in any account at any bank or savings and loan institution, or with any credit card processing agent, automated clearing house processor, network transaction processor, bank debit processing agent, customer service agent, commercial mail receiving agency, or mail holding or forwarding company, or any credit union, retirement fund custodian, money market or mutual fund, storage company, trustee, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, or other financial institution or depository of any kind, either within or outside the territorial United States;

B. Opening or causing to be opened any safe deposit boxes, commercial mail boxes, or storage facilities titled in the name of any Defendant, or subject to access by any Defendant or under any Defendant's control, without providing Plaintiff prior notice and an opportunity to inspect the contents in order to determine that they contain no Assets covered by this Section;

C. Cashing any checks or depositing or processing any payments from customers of Defendants;

D. Incurring charges or cash advances on any credit card issued in the name, singly or jointly, of any Defendant; or

E. Incurring liens or encumbrances on real property, personal property, or other Assets in the name, singly or jointly, of any Defendant or of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any Defendant.

Notwithstanding the Asset freeze provisions of Section III, subsections A through E above, and subject to prior written agreement with the State, Individual Defendants may, upon compliance with the provisions of Section IV (Financial Statements), *infra*, pay from their individual personal funds reasonable, usual, ordinary, and necessary living expenses.

The funds, property, and Assets affected by this Section shall include both existing Assets and Assets acquired after the entry of this Order.

### **III. DUTIES OF THIRD PARTIES HOLDING DEFENDANTS' ASSETS**

**IT IS FURTHER ORDERED** that any financial institution, business entity, or person maintaining or having custody or control of any account or other asset of any Defendant, connected to the activity at the facility, or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by, or under common control with any Defendant connected to the

activity at **Error! Reference source not found.**, which is served with a copy of this Order, or otherwise has actual or constructive knowledge of this Order, shall:

A. Hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, hypothecation, encumbrance, disbursement, dissipation, conversion, sale, liquidation, or other disposal of any of the assets, funds, documents, or other property held by, or under its control:

1. On behalf of, or for the benefit of, any Defendant or any other party subject to Section III above;
2. In any account maintained in the name of, or for the benefit of, or subject to withdrawal by, any Defendant or other party subject to Section III above; and
3. That are subject to access or use by, or under the signatory power of, any Defendant or other party subject to Section III above.

B. Deny Defendants access to any safe deposit boxes or storage facilities that are either titled in the name, individually or jointly, of any Defendant, or other party subject to Section III above, or subject to access by any Defendant or other party subject to Section III above;

C. Provide Plaintiff, **within three (3) days of the date of service of this Order**, a sworn statement setting forth:

1. The identification number of each account or asset titled in the name, individually or jointly, of any Defendant, or held on behalf of, or for the benefit of, any Defendant or other party subject to Section III above, including all trust accounts managed on behalf of any Defendant or subject to any Defendant's control;
2. The balance of each such account, or a description of the nature and value of such asset;



3. The identification and location of any safe deposit box, commercial mail box, or storage facility that is either titled in the name, individually or jointly, of any Defendant, or is otherwise subject to access or control by any Defendant or other party subject to Section III above, whether in whole or in part; and
4. If the account, safe deposit box, storage facility, or other asset has been closed or removed, the date closed or removed and the balance on said date.

D. Provide Plaintiff, **within three (3) days of the date of service of this Order**, copies of all records or other documents pertaining to each such account or asset, including, but not limited to, originals or copies of account applications, account statements, corporate resolutions, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs.

Plaintiff may properly serve this Order on any financial or brokerage institution, business entity or person that holds, controls or maintains custody of any account or Asset of any Defendant or has held, controlled or maintained custody of any account or Asset of any Defendant, by electronic mail, facsimile transmission, hand delivery or overnight carrier.

This Section shall apply to existing accounts and assets, assets deposited, or accounts opened after the effective date of this Order, and any accounts or assets maintained, held or controlled three years prior to the effective date of this Order. This Section shall not prohibit transfers in accordance with any provision of this Order, any further order of the Court, or by written agreement of the parties.

#### **IV. DISCLOSURE OF FINANCIAL ACCOUNTS**

**IT IS FURTHER ORDERED** that each Defendant shall serve upon counsel for Plaintiff, within twenty-four (24) hours of the service of this order, serve upon counsel for Plaintiff a listing of all accounts Defendants have with any bank, credit union, broker, mortgage company, investment company or any other financial institution including both domestic and foreign companies. For each account, this listing shall identify the financial institution, the type of account, the account number, and the account balance on the account.

#### **V. MAINTAIN RECORDS AND REPORT NEW BUSINESS ACTIVITY**

**IT IS FURTHER ORDERED** that Defendants, and their officers, agents, servants, employees, attorneys, successors and all other persons in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, are hereby temporarily restrained and enjoined from:

A. Failing to make and keep books, records, accounts, bank statements, current accountants' reports, general ledgers, general journals, cash receipts ledgers, cash disbursements ledgers and source documents, documents indicating title to real or personal property, and any other data which, in reasonable detail, accurately and fairly reflect the incomes, disbursements, transactions, dispositions, and uses of Defendants' assets;

B. Destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any documents, including electronically stored materials, that relate in any way to the business practices or business or personal finances of Defendants; to the business practices or finances of entities directly or indirectly under the control

of Defendants; or to the business practices or finances of entities directly or indirectly under common control with any other Defendant; and

C. Creating, operating, or exercising any control over any new business entity, whether newly formed or previously inactive, whether within or outside Alabama, including any partnership, limited partnership, joint venture, sole proprietorship or corporation, without first providing Plaintiff with a written statement disclosing: (1) the name of the business entity; (2) the address, telephone number, e-mail address, and website address of the business entity; (3) the names of the business entity's officers, directors, principals, managers, and employees; and (4) a detailed description of the business entity's intended activities.

## **VI. ACCESS TO BUSINESS PREMISES**

**IT IS FURTHER ORDERED** that Defendants, and their officers, agents, servants, employees, and attorneys, successors, and all other persons in active concert or participation with any of them, who receive notice of this Order by personal service or otherwise, shall be prohibited from entering, using, or otherwise accessing the facility without written permission of the Court or by written agreement of the parties.

The Plaintiff is permitted to secure the facility by any reasonable means necessary to enjoin the access and operation of illegal gambling activity therein until proper measures may be accomplished to ensure the safety and health of the community or by further orders of this Court.

Plaintiff is permitted to search and inspect the facility, copy any and all books, records, documents, accounts, and other property owned by, or in the possession of, the Defendants or their agents at the facility. The Plaintiff may remove materials from the facility to inspect, inventory, and copy such materials or pursuant to any other lawfully issued Order by the Court.

This Section shall not affect the State's ability to conduct any other lawful law enforcement activity or prohibit any further lawful Orders issued by this Court related to the premise or property found therein.

## **VII. DISTRIBUTION OF ORDER BY DEFENDANTS**

**IT IS FURTHER ORDERED** that Defendants shall immediately provide a copy of this Order to each of their corporations, subsidiaries, affiliates, partners, divisions, sales entities, successors, assigns, members, officers, directors, employees, independent contractors, agents, servants, attorneys, representatives, and any other persons in active concert or participation with them.

Within five (5) calendar days following service of this Order, Defendants shall file with this Court and serve on Plaintiff an affidavit identifying the name, title, addresses, telephone numbers, date of service, and manner of service of the persons and entities Defendants have served with a copy of this Order in compliance with this provision.

## **VIII. EXPIRATION DATE OF TEMPORARY RESTRAINING ORDER**

**IT IS FURTHER ORDERED** that the Temporary Restraining Order granted herein shall expire on December 2, 2024, at 5:00 am/pm. (Central Time), unless within such time, the Order, for good cause shown, is extended, or unless, as to any Defendant, the Defendant consents that it should be extended for a longer period of time.

# **IX. ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION**

Having reviewed the evidence presented by the Plaintiff in its motion and during the *ex parte* TRO hearing held on November 21, 2023, the Court is satisfied that the Plaintiff has met its burden of showing that it is entitled to preliminary injunctive relief.

Accordingly, it is **ORDERED**, pursuant to Alabama Rule of Civil Procedure 65, that each Defendant shall appear before this Court on the 2 day of December, 202~~3~~<sup>4</sup>, at 1:00 o'clock     a.m./p.m. (Central Time), at the Jefferson County Courthouse, Birmingham, Alabama, Courtroom 320, to show cause, if there is any, why this Court should not enter a Preliminary Injunction, pending final ruling on the Complaint against Defendants, enjoining them from offering, promoting, possessing or profiting from slot machines and illegal gambling; from further violating Alabama's gambling laws; continuing the freeze of their assets; and imposing such additional relief as may be appropriate.

# **X. BRIEFS AND AFFIDAVITS CONCERNING PRELIMINARY INJUNCTION**

**IT IS FURTHER ORDERED** that Defendants shall file with the Court and serve on Plaintiff's counsel any answering affidavits, pleadings, motions, expert reports, or declarations, and/or legal memoranda no later than four (4) business days prior to the above show cause hearing on Plaintiff's request for a preliminary injunction.

Plaintiff may file responsive or supplemental pleadings, materials, affidavits, motions, or memoranda with the Court and serve the same on counsel for Defendants no later than one (1) business day prior to the show cause hearing in this matter.

Service of any documents under this Section shall be performed by personal or overnight delivery, by electronic filing, by electronic mail, or by facsimile, and documents shall be delivered

so that they shall be received by the other parties no later than 4:00 p.m. (Central Time) on the appropriate dates listed.

# **XI. MOTION FOR LIVE TESTIMONY - WITNESS IDENTIFICATION**

**IT IS FURTHER ORDERED** that the question of whether this Court should enter a preliminary injunction pursuant to Rule 65 of the Alabama Rules of Civil Procedure enjoining the Defendants during the pendency of this action shall be resolved on the pleadings, declarations, exhibits, and memoranda filed by, and oral argument of, the parties.

Live testimony shall be heard only on further order of this Court or on motion filed with the Court and served on counsel for the other parties at least four (4) business days prior to the preliminary injunction hearing in this matter. Such motion shall set forth the name, address, and telephone number of each proposed witness, a detailed summary or affidavit revealing the substance of each proposed witness's expected testimony, and an explanation of why the taking of live testimony would be helpful to this Court.

Any papers opposing a timely motion to present live testimony or moving to present live testimony in response to another party's timely motion to present live testimony shall be filed with this Court and served on the other parties at least two (2) business days prior to the preliminary injunction hearing in this matter

Service of any documents under this Section shall be performed by personal or overnight delivery, by electronic filing, by electronic mail, or by facsimile, and documents shall be delivered so that they shall be received by the other parties no later than 4:00 p.m. (Central Time) on the appropriate dates listed.

## **XII. NECESSITY FOR EVIDENTIARY HEARING**

**IT IS FURTHER ORDERED** that an evidentiary hearing on Plaintiff's request for a preliminary injunction is not necessary unless Defendants demonstrate that they have, and intend to introduce, evidence that raises a genuine and material factual issue.

## **XIII. SERVICE OF THIS ORDER**

**IT IS FURTHER ORDERED** that copies of this Order may be distributed by United States First Class Mail, overnight delivery, facsimile, electronic mail, or personally, by agents or employees of Plaintiff, by any law enforcement agency, or by private process server, upon any person, financial institution, or other entity that may have possession or control of any property, property right, document, or asset of any Defendant, or that may be subject to any provision of this Order. Service upon any branch or office of any financial institution or entity shall affect service upon the entire financial institution or entity.

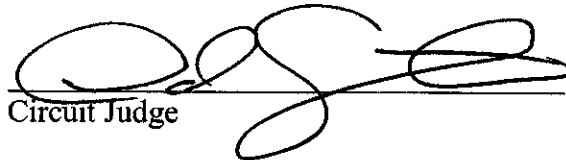
## **XIV. SERVICE UPON PLAINTIFF**

**IT IS FURTHER ORDERED** that Defendants shall serve all pleadings, memoranda, correspondence, affidavits, declarations, or other documents related to this Order or Plaintiff's motion for a preliminary injunction by e-mail to Deputy Attorney General John Kachelman (**Error! Reference source not found.**) and mail delivery to the Office of the Attorney General, 501 Washington Avenue, Montgomery Alabama, 36130 to the attention of Deputy Attorney General John Kachelman, or overnight shipment through a third-party commercial carrier for delivery at the address listed above.

**XV. RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this matter for all purposes.

**SO ORDERED**, this 20 day of November, 2024, at 11:00 am/pm.

  
Circuit Judge