

PRESS RELEASE

MARCH 18, 2010

IMMEDIATE RELEASE

PLACE: LITTLE ROCK, ARKANSAS

CONTACT INFORMATION:

SKIP DAVIDSON – DAVIDSON LAW FIRM –

Email: skipd@dlf-ar.com

Office: 501-320-5110

Cell: 501-912-0020

Today Davidson Law Firm filed a suit for Declaratory Judgment to enforce Alpha Marketing's exclusive right to use its registered trademarks "Arkansas Lottery", "Arkansas Lotto", and "Lottery Arkansas".

Suit was filed against the State of Arkansas and the Lottery Commission.

The Plaintiff is Alpha Marketing owned by Ed Dozier, a Little Rock Business and Advertising Executive.

Suit was filed in Pulaski County Circuit Court and has been assigned to Judge Timothy D. Fox, 6th Division, Case Number CV 2010-1458.

Alpha registered and has been using the trademarks "Arkansas Lottery" and "Arkansas Lotto" since 1994. Alpha began using the trademark "Lottery Arkansas" in 2007 and registered the trademark in February 2009.

State of Arkansas has granted Alpha exclusive rights to these names by issuing certificates of trademark registration the earliest being August 12, 1994.

After years of use and registration with the State of Arkansas, now the State of Arkansas has indicated that the Lottery Commission will not honor these well established proprietary trademarks.

According to Skip Davidson of Davidson Law Firm this lawsuit is a routine trademark suit and will take several months to resolve. Alpha expects to prevail in the suit and to obtain a court order which will stop the State of Arkansas and the Lottery Commission from interfering with Alpha's exclusive use of these names.

A copy of the Complaint is attached.

ALPHA MARKETING

CV 2010 1458 PLAINTIFF

v.

Case No. CV: _____

ARKANSAS LOTTERY COMMISSION
ERNIE PASSAILAIGUE, DIRECTOR

DEFENDANT

COMPLAINT FOR DECLARATORY JUDGMENT

COMES NOW Plaintiff, ALPHA MARKETING, by and through the undersigned attorney, and for its Complaint for Declaratory Judgment states as follows:

Jurisdiction and Venue

1. That Alpha Marketing is a sole proprietorship owned and operated by Ed Dozier. Alpha Marketing is located at 5100 Lakeview Road, North Little Rock, Pulaski County, Arkansas;
2. That Alpha Marketing is engaged in the business of advertising, promotion and sales of goods via radio, internet and print media throughout the State of Arkansas;
3. That the Arkansas Lottery Commission is an agency of the State of Arkansas;
4. That Ernie Passailaigue is the Director of the Arkansas Lottery Commission;
5. That this Declaratory Judgment action involves intellectual property rights granted upon Alpha Marketing by the State of Arkansas;
6. That this Court is authorized to declare the rights and obligations of parties in relation to these intellectual property rights pursuant to Arkansas Code Annotated § 16-111-104;

7. That venue is proper in this Court pursuant to Arkansas Code Annotated § 16-55-213, and this Court has jurisdiction over the subject matter and the parties;

Factual Background

8. That Alpha Marketing registered, and began use of, the mark “ARKANSAS LOTTERY” in the ordinary course of trade in 1994, and has used the mark since that time;

9. That on August 23, 2002 the Arkansas Secretary of State recorded and issued to Alpha Marketing a Certificate of Trademark Registration number TM00002161 (currently identified as “500002161”) for the trademark “ARKANSAS LOTTERY”. A true and correct copy of this Certificate of Trademark Registration for “ARKANSAS LOTTERY” is attached as exhibit “A”;

10. That on August 23, 2007 the Arkansas Secretary of State filed Articles of Renewal Registration entitling legal registration of the trademark “ARKANSAS LOTTERY” to Alpha Marketing. A true and correct copy of this Articles of Renewal Registration for the trademark “ARKANSAS LOTTERY” is attached as exhibit “B”;

11. That Alpha Marketing registered and began use of the mark “ARKANSAS LOTTO” in the ordinary course of trade in 1994, and has used the mark since that time;

12. That on August 23, 2002 the Arkansas Secretary of State recorded and issued to Alpha Marketing a Certificate of Trademark Registration number TM00002162 (currently identified as “500002162”) for the trademark “ARKANSAS LOTTO”. A true and correct copy of this Certificate of Trademark Registration for “ARKANSAS LOTTO” is attached as exhibit “C”;

13. That on August 23, 2007 the Arkansas Secretary of State filed Articles of Renewal Registration entitling legal registration of the trademark “ARKANSAS LOTTO” to

Alpha Marketing. A true and correct copy of this Articles of Renewal Registration for the trademark “ARKANSAS LOTTO” is attached as exhibit “D”;

14. That Alpha Marketing registered and began use of the mark “LOTTERY ARKANSAS” in the ordinary course of trade in 2007, and has used the mark since that time;

15. That on February 10, 2009 the Arkansas Secretary of State recorded and issued to Alpha Marketing a Certificate of Trademark Registration number 800150273 for the trademark “LOTTERY ARKANSAS”. A true and correct copy of this Certificate of Trademark Registration for “LOTTERY ARKANSAS” is attached as exhibit “E”;

16. That on May 21, 2009 Bradford Phelps, Senior Assistant Attorney General, sent a cease-and-desist letter to Alpha Marketing threatening legal action against Alpha Marketing if it did not immediately cease all marketing efforts. A true and correct copy of this letter from Bradford Phelps to Alpha Marketing is attached as exhibit “F”;

17. That on June 10, 2009 Mr. Dozier sent an email to Mr. Phelps seeking acknowledgement of relief from the threatened legal action and validity of the trademarks registered to Alpha Marketing. Mr. Phelps responded only by acknowledging that the Attorney General’s inquiry was ongoing. A true and correct copy of this email is attached as exhibit “G”;

18. That on August 19, 2009, Alpha Marketing, through its counsel, notified Mr. Phelps of its intent to continue use of its trademarks, and requested a statement of intent from the Attorney General’s office. A true and correct copy of this letter is attached as exhibit “H”;

19. That on August 21, 2009 Mr. Phelps informed Alpha Marketing only that the Attorney General’s office would take no further action “at this time” and was referring the matter to the Arkansas Lottery Commission. A true and correct copy of this letter from Mr. Phelps is attached as exhibit “I”;

Declaratory Judgment

20. That since Alpha Marketing holds the Certificates of Trademark Registration on ARKANSAS LOTTERY, ARKANSAS LOTTO, and LOTTERY ARKANSAS it is entitled to the exclusive use of those trademarks throughout the state;

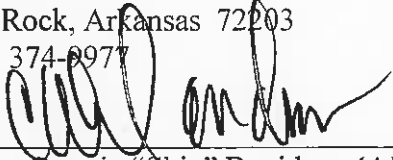
21. That the right of Alpha Marketing to the exclusive use of those trademarks has been challenged by the Arkansas Attorney General's Office and the Arkansas Lottery Commission;

22. That litigation between the parties is highly probable if the court does not make a declaration regarding the ownership and usage rights of the trademarks, ARKANSAS LOTTERY, ARKANSAS LOTTO, and LOTTERY ARKANSAS.

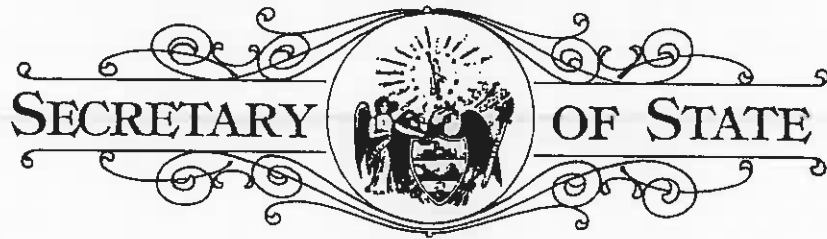
Prayer

WHEREFORE, Plaintiff, Alpha Marketing respectfully requests that this honorable Court determine and declare that the trademarks ARKANSAS LOTTERY, ARKANSAS LOTTO, and LOTTERY ARKANSAS are valid and that Alpha Marketing owns right to exclusive use of those marks throughout the state, and for all other just and proper relief.

Respectfully Submitted,
Davidson Law Firm, Ltd.
724 Garland Street
P.O. Box 1300
Little Rock, Arkansas 72203
(501) 374-8977

BY: 
Charles Darwin "Skip" Davidson (ABA# 73-026)

STATE OF ARKANSAS



Sharon Priest
SECRETARY OF STATE

Certificate of Trademark Registration

To All to Whom These Presents Shall Come, Greetings:

I, Sharon Priest, Secretary of State of Arkansas, in accordance with the provisions of Act 81 of the General Assembly of 1967 of the State of Arkansas, do hereby certify that ALPHA MARKETING whose business address is 415 CR 1520, EUREKA SPRINGS, ARKANSAS 72632 has filed in this office the necessary papers and certificates to entitle it to the legal registration, claiming ownership of the following attached Mark, stating that the date claimed for the first use of the Mark anywhere is September 25, 1994 and the date claimed for the first use of the Mark in Arkansas is September 25, 1994.

This Trademark:

ARKANSAS LOTTERY

is granted for and may be used only upon the following classification of goods or services : 38,35,41,16,42 , and a brief description of the goods or services on which the Mark is used is: TO ENCOURAGE ARKANSAS RESIDENTS TO PARTICIPATE IN ARKANSAS LOTTERY ADVERTISING AND MARKETING PROMOTIONS.

This mark has been duly recorded and registered as No. TM00002161 said registration being in effect for a term of five years from the date hereof to August 23, 2007.



In Testimony Whereof, I have hereunto set my hand and affixed my official Seal Done at my office in the City of Little Rock, this 23rd day of August 2002.

Sharon Priest
Secretary of State

EXHIBIT

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A

02 AUG 23 PM 2:51
 SECRETARY OF STATE
 STATE OF ARKANSAS



Arkansas Secretary of State Sharon Priest

State Capitol • Little Rock, Arkansas 72201-1094 • 501.682.3409

APPLICATION FOR THE REGISTRATION OF A TRADEMARK OR SERVICE MARK
 RETURN IN DUPLICATE TO
 Corporations Division

**** IMPORTANT **** Application should be submitted in duplicate and accompanied by three original specimens of the mark. The filing fee is \$50.00, please make checks payable to "the Secretary of State".

Application is for: New Application Renewal Trademark Service Mark

File Number: _____	For Office Use Only
	Expiration Date: _____ <small>(Five years from date filed)</small>

(1) The following Applicant, ALPHA MARKETING, is an () individual, () corporation, (partnership, () or other (please indicate one) and has hereunto adopted and used a certain mark and hereby makes application to register said mark in Arkansas.

(a) If partnership, give names and addresses of partners: Ed Dozier, 415 CR 1520, Eureka Springs, AR 72632; Gene O'Daniel, 112 S. 2nd St., Ozark, AR 72949

Partnership is organized in the state of: ARKANSAS

(b) If corporation, indicate date and state of incorporation: _____

(c) If other, give explanation: _____

(2) Mark being applied for is: ARKANSAS LOTTERY

(Complete with all words to be included, the style print of these words and a WRITTEN description of any and all logos to be included. Anything NOT included in item 2 will not be considered as part of the mark.) SPECIMENS SHOULD BE IDENTIFIABLE BY WRITTEN DESCRIPTION.

(3) Business address of the applicant: 415 CR 1520, Eureka Springs, AR 72632

(4) Address where certificate of registration is to be sent: 415 CR 1520, Eureka Springs, AR 72632

(5) Applicant is applying for mark under the following class number and title: 38 (Telecommunications), 35 (Advertising & Business), 41 (Education & Entertainment), 16 (Paper Goods & printed matter), & 42 (Miscellaneous)
(Refer to attached classification of goods and services)

(6) Describe the goods or services that this mark represents: An advertising and promotional program to promote business products & services. Also a tie-in to any eventual lottery in Arkansas.

(7) Indicate how mark will be used to represent goods or services: To encourage Arkansas residents to participate in Arkansas Lottery advertising and marketing promotions

(8) Date mark applied for was first used (anywhere) 9-25-94 and the date when it was first used in Arkansas 9-25-94 (both dates must be indicated).

(9) Applicant is the owner of this mark currently registered in the United States Patent and Trademark Office. If true, give registration number: _____ if not, indicate. NO

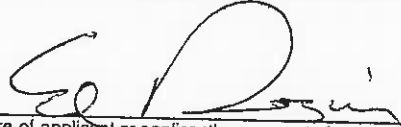
(10) Applicant appoints the Secretary of State as agent for service of process in any action relating only to the registration which may be issued if the applicant is or shall become a non-resident individual, person, association, or foreign corporation not licensed to do business in this State or cannot be found in this State.

(11) Applicant is stating that said applicant is the owner of the mark and that no other person has registered, either federally or in this State, or has the right to use the mark in this State either in the identical form thereof or in such a near resemblance thereto as might be calculated to deceive or to be mistaken therefor.

(12) This application shall be signed and verified by the applicant or by a partner of the partnership, or an officer of the corporation or association applying. I Ed Dozier depose and say that I am applying for said mark

on behalf of ALPHA MARKETING as the PARTNER of said applicant or myself as an individual. As such I make this affidavit and verification that I have read the above and forgoing application and know the contents hereof, and the facts set out herein are true. I further affirm that the three specimens of facsimiles filed herewith are true and correct.

I understand that I am subject to the perjury laws of the State of Arkansas.



Signature of applicant or applicant's representative and title

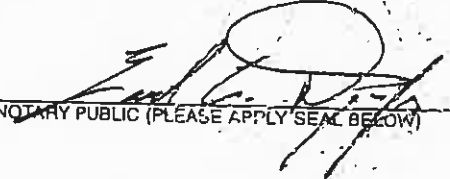
AFFIDAVIT

State of ARKANSAS County of Carroll

Subscribed and sworn before me this 22 day of August, 2002.

EARL C. DYE, JR. Notary Public
Carroll County State of Arkansas
My Commission Expires Dec. 15, 2009

My commission expires:



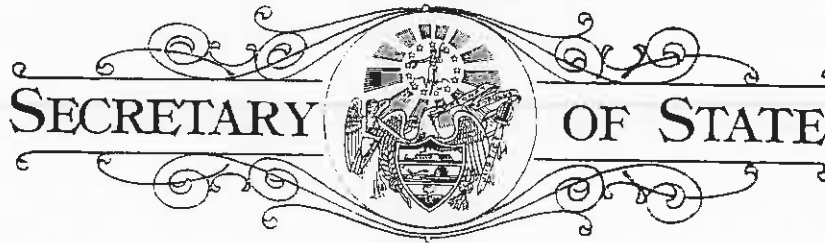
SIGNATURE OF NOTARY PUBLIC (PLEASE APPLY SEAL BELOW)

Arkansas
LOTTERY TM

**An Advertising & Marketing Program
To build retail store traffic through the excitement of no-cost
lottery drawings.**

ALPHA Marketing
415 CR 1520, Eureka Springs, AR 72632
Phone 479-253-5452

STATE OF ARKANSAS

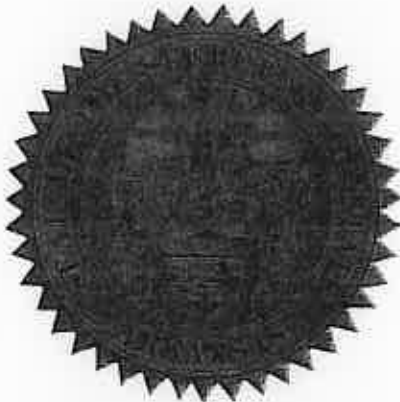


Charlie Daniels
SECRETARY OF STATE

To All to Whom These Presents Shall Come, Greetings:

I, Charlie Daniels, Secretary of State of Arkansas, do hereby certify that a Articles of Renewal Registration was filed in this office entitling legal registration of the attached Mark to the following declared owner(s): ALPHA MARKETING, 2 AINSDALE LANE, BELLA VISTA, ARKANSAS 72714

The date claimed for the first use of the Mark anywhere is September 25, 1994 and the date claimed for the first use of the Mark in Arkansas is September 25, 1994. This Trademark: named "ARKANSAS LOTTERY" is granted for and may be used only upon the following classification of goods or services: 16-Paper Goods & Printed Matter; 35-Advertising & Business; 38-Telecommunications; 41-Education & Entertainment; 45-Personal, and a brief description of the goods or services on which the Mark is used is: An advertising & promotional program to promote a lottery & business products & services. Used in printed materials, television radio and other forms of advertising. This mark has been duly recorded and registered being in effect for a term of five years from the date hereof August 23, 2007.



In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at my office in the City of Little Rock, this August 23, 2007.

Charlie Daniels

Secretary of State

EXHIBIT

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Arkansas Secretary of State

Charlie Daniels

State Capitol • Little Rock, Arkansas 72201-1094
501-682-3409 • www.sos.arkansas.gov

TRADEMARKS AND SERVICE MARKS APPLICATION OR RENEWAL

1. New Application Renewal (PLEASE PRINT OR TYPE)

File Number: 500002161 FOR OFFICE USE ONLY Expiration Date: 8/23/2012

2. Applicant's Name: ALPHA MARKETING
Street Address: 2 Ainsdale Lane
City: Bella Vista State: Arkansas ZIP: 72714

3. If Applicant is a corporation, give state of incorporation: _____
If Applicant is a Partnership, give state of organization and names of general partners: sole proprietor

4. Applicant is Seeking to Register: Trademark Service Mark
5. What is the classification and title of goods and services connected with mark: 16, 35, 38, 41, 45

6. Briefly describe the goods and services used in connection with this mark: An advertising and promotional program to promote a lottery and business products and services

7. Briefly describe how the mark is used in connection with such goods and services: To encourage Arkansas residents to participate in Arkansas Lottery and/or to promote tie-in business promotions, utilizing printed materials, television, radio and other forms of advertising.

8. Mark being applied for is (include 3 Specimens): Arkansas Lottery

9. The mark has been used in business by the applicant (or predecessor) since 9-25-94 and used in the state of Arkansas since 9/25/94. Federal Trademark if applicable _____

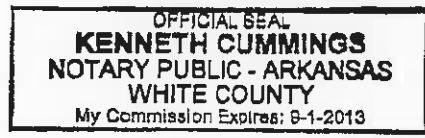
AFFIDAVIT

Applicant is stating that said applicant is the owner of the mark and that no other person has registered, either federally or in this State, or has the right to use the mark in this State either in the identical form thereof or in such a near resemblance thereto as might be calculated to deceive or to be mistaken therefor.

10. I, Ed Dozier, being first duly sworn, state that I am the applicant, or a lawfully authorized representative of the applicant, that I have read the above application and know its contents and that the facts stated therein are true:

Signature: Ed Dozier Title: _____
Printed Name: Ed Dozier Contact Telephone Number: _____

11. State of Arkansas
County of Pulaski
Subscribed and sworn to before me, a notary public, on
this 21ST day of August, 2007.



My commission expires: 9/1/2013 Notary Public: Kenneth Cummings

Filing Fee \$50.00

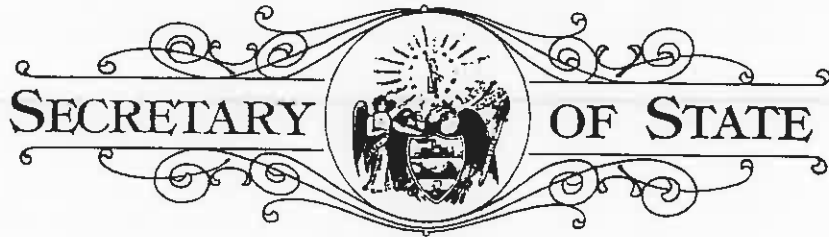


Arkansas
LOTTERY TM

**An Advertising & Marketing Program
To build retail store traffic through the excitement of no-cost
lottery drawings.**

ALPHA Marketing
415 CR 1520, Eureka Springs, AR 72632
Phone 479-253-5452

STATE OF ARKANSAS



Sharon Priest
SECRETARY OF STATE

Certificate of Trademark Registration

To All to Whom These Presents Shall Come, Greetings:

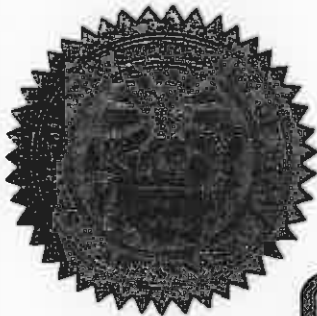
I, Sharon Priest, Secretary of State of Arkansas, in accordance with the provisions of Act 81 of the General Assembly of 1967 of the State of Arkansas, do hereby certify that ALPHA MARKETING whose business address is 415 CR 1520, EUREKA SPRINGS, ARKANSAS 72632 has filed in this office the necessary papers and certificates to entitle it to the legal registration, claiming ownership of the following attached Mark, stating that the date claimed for the first use of the Mark anywhere is October 07, 1994 and the date claimed for the first use of the Mark in Arkansas is October 07, 1994.

This Trademark:

ARKANSAS LOTTO

is granted for and may be used only upon the following classification of goods or services : 38,35,41,16,42 , and a brief description of the goods or services on which the Mark is used is: TO ENCOURAGE ARKANSAS RESIDENTS TO PARTICIPATE IN ARKANSAS LOTTO ADVERTISING AND MARKETING PROMTIONS.

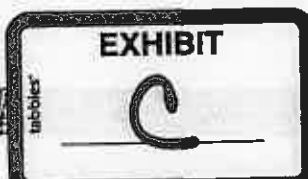
This mark has been duly recorded and registered as No. TM00002162 said registration being in effect for a term of five years from the date hereof to August 23, 2007.



*In Testimony Whereof, I have hereunto set my hand and affixed my official Seal
Done at my office in the City of Little Rock,
this 23rd day of August 2002.*

Sharon Priest

Secretary of State





Arkansas Secretary of State Sharon Priest

CORPORATION
AUG 23 PM 2:51
SECRETARY OF STATE
ARKANSAS

State Capitol • Little Rock, Arkansas 72201-1094 • 501.682.3409

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APPLICATION FOR THE REGISTRATION OF A TRADEMARK OR SERVICE MARK RETURN IN DUPLICATE TO Corporations Division

**** IMPORTANT **** Application should be submitted in duplicate and accompanied by three original specimens of the mark. The filing fee is \$50.00, please make checks payable to "the Secretary of State".

Application is for: New Application Renewal Trademark Service Mark

File Number: Tmalu2 For Office Use Only Expiration Date: 8/23/07
(Five years from date filed)

(1) The following Applicant: ALPHA MARKETING, is an () individual, () corporation, partnership, () or other (please indicate one) and has hereunto adopted and used a certain mark and hereby makes application to register said mark in Arkansas.

(a) If partnership, give names and addresses of partners: Ed Dozier, 415 CR 1520, Eureka Springs, AR 72632
Gene O'Daniel, 112 S. 2nd St, Ozark, AR 72949
Partnership is organized in the state of: ARKANSAS

(b) If corporation, indicate date and state of incorporation: _____
(c) If other, give explanation: _____

(2) Mark being applied for is: ARKANSAS LOTTO

(Complete with all words to be included, the style print of these words and a WRITTEN description of any and all logos to be included. Anything NOT included in Item 2 will not be considered as part of the mark.) SPECIMENS SHOULD BE IDENTIFIABLE BY WRITTEN DESCRIPTION.

(3) Business address of the applicant: 415 CR 1520, Eureka Springs, AR 72632

(4) Address where certificate of registration is to be sent: 415 CR 1520, Eureka Springs, AR 72632

(5) Applicant is applying for mark under the following class number and title: 38 (Telecommunications) 35 (Advertising and Business) 41 (Education + Entertainment) 16 (paper goods + printed matter) and 42 (miscellaneous)
(Refer to attached classification of goods and services)

(6) Describe the goods or services that this mark represents: An advertising and promotional program to promote business products and services. Also to tie-in to any eventual lottery in Arkansas

(7) Indicate how mark will be used to represent goods or services: To encourage Arkansas residents to participate in Arkansas Lotto advertising and marketing promotions

(8) Date mark applied for was first used (anywhere) 10-7-94 and the date when it was first used in Arkansas 10-7-94 (both dates must be indicated).

(9) Applicant is the owner of this mark currently registered in the United States Patent and Trademark Office. If true, give registration number: _____ if not, indicate. NO

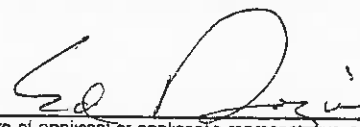
(10) Applicant appoints the Secretary of State as agent for service of process in any action relating only to the registration which may be issued if the applicant is or shall become a non-resident individual, person, association, or foreign corporation not licensed to do business in this State or cannot be found in this State.

'11) Applicant is stating that said applicant is the owner of the mark and that no other person has registered, either federally or in this State or has the right to use the mark in this State either in the identical form thereof or in such a near resemblance thereto as might be calculated to deceive or to be mistaken therefor.

(12) This application shall be signed and verified by the applicant or by a partner of the partnership, or an officer of the corporation or association applying. I Ed Dozier depose and say that I am applying for said mark

on behalf of ALPHA MARKETING as the PARTNER of said applicant or myself as an individual. As such I make this affidavit and verification that I have read the above and foregoing application and know the contents hereof, and the facts set out herein are true. I further affirm that the three specimens of facsimiles filed herewith are true and correct.

I understand that I am subject to the perjury laws of the State of Arkansas.



Signature of applicant or applicant's representative and title

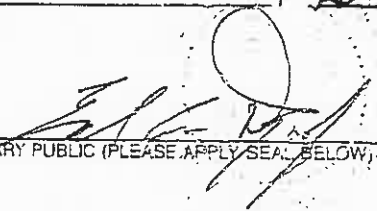
AFFIDAVIT

State of ARKANSAS County of Carroll

Subscribed and sworn before me this 22 day of August, 2002.

EARL C. DYE, JR. Notary Public
Carroll County State of Arkansas

My commission expires: My Commission Expires Dec. 15, 2002



SIGNATURE OF NOTARY PUBLIC (PLEASE APPLY SEAL BELOW)



Arkansas

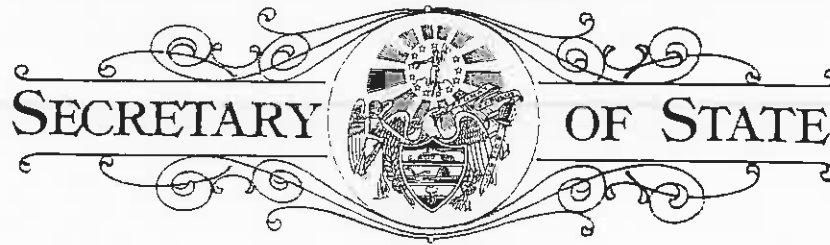
LOTTOTM

An Advertising & Marketing Program

To build retail store traffic through the excitement of no-cost lottery drawings.

ALPHA Marketing
415 CR 1520, Eureka Springs, AR 72632
Phone 479-253-5452

STATE OF ARKANSAS

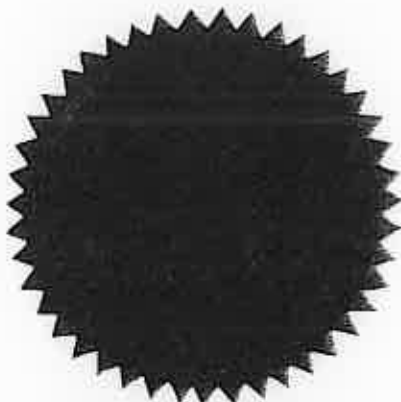


Charlie Daniels
SECRETARY OF STATE

To All to Whom These Presents Shall Come, Greetings:

I, Charlie Daniels, Secretary of State of Arkansas, do hereby certify that a Articles of Renewal Registration was filed in this office entitling legal registration of the attached Mark to the following declared owner(s); ALPHA MARKETING, 2 AINSDALE LANE, BELLA VISTA, ARKANSAS 72714

The date claimed for the first use of the Mark anywhere is September 25, 1994 and the date claimed for the first use of the Mark in Arkansas is September 25, 1994. This Trademark: named "ARKANSAS LOTTO" is granted for and may be used only upon the following classification of goods or services: 16-Paper Goods & Printed Matter; 35-Advertising & Business; 38-Telecommunications; 41-Education & Entertainment; 45-Personal, and a brief description of the goods or services on which the Mark is used is: An advertising & promotional program to promote a lottery & business products & services. Used in printed materials, television, radio and other forms of advertising. This mark has been duly recorded and registered being in effect for a term of five years from the date hereof August 23, 2007.



In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at my office in the City of Little Rock, this August 23, 2007.

Charlie Daniels

Secretary of State

EXHIBIT

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tabbles



Arkansas Secretary of State

Charlie Daniels

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501-682-3409 • www.sos.arkansas.gov

TRADEMARKS AND SERVICE MARKS APPLICATION OR RENEWAL

1. New Application Renewal

(PLEASE PRINT OR TYPE)

File Number: 500002162 FOR OFFICE USE ONLY Expiration Date: 8/23/2012

2. Applicant's Name: ALPHA MARKETING
Street Address: 2 Ainsdale Lane
City: Bella Vista State: Arkansas ZIP: 72714

3. If Applicant is a corporation, give state of incorporation: _____
If Applicant is a Partnership, give state of organization and names of general partners: sole proprietorship

4. Applicant is Seeking to Register: Trademark Service Mark
5. What is the classification and title of goods and services connected with mark: 16, 35, 38, 41, 45

6. Briefly describe the goods and services used in connection with this mark: An advertising and promotional program to promote a lottery and business products and services

7. Briefly describe how the mark is used in connection with such goods and services: To encourage Arkansas residents to participate in Arkansas Lotto and/or to promote tie-in business promotions utilizing printed materials, television, radio and other forms of advertising.

8. Mark being applied for is (Include 3 Specimens): ARKANSAS LOTTO

9. The mark has been used in business by the applicant (or predecessor) since 9-25-94 and used in the state of Arkansas since 9-25-94. Federal Trademark if applicable _____

AFFIDAVIT

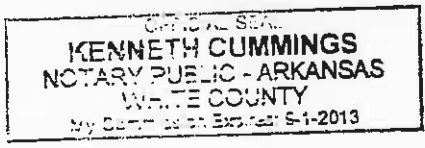
Applicant is stating that said applicant is the owner of the mark and that no other person has registered, either federally or in this State, or has the right to use the mark in this State either in the identical form thereof or in such a near resemblance thereto as might be calculated to deceive or to be mistaken therefor.

10. Ed Dozier, being first duly sworn, state that I am the applicant, or a lawfully authorized representative of the applicant, that I have read the above application and know its contents and that the facts stated therein are true:

Signature: [Signature] Title: _____
Printed Name: Ed Dozier Contact Telephone Number: _____

11. State of Arkansas
County of Dulaski

Subscribed and sworn to before me, a notary public, on this 21st day of August, 2007.



My commission expires: 9/1/2013 Notary Public: Kenneth Cummings

Filing Fee \$50.00



Arkansas

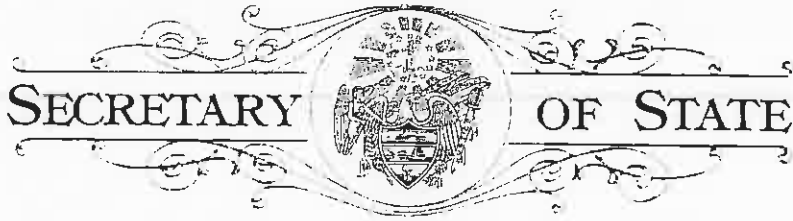
LOTTOTM

An Advertising & Marketing Program

To build retail store traffic through the excitement of no-cost lottery drawings.

ALPHA Marketing
415 CR 1520, Eureka Springs, AR 72632
Phone 479-253-5452

STATE OF ARKANSAS



Charlie Daniels
SECRETARY OF STATE

To All to Whom These Presents Shall Come, Greetings:

I, Charlie Daniels, Secretary of State of Arkansas, do hereby certify that a Certificate of Trademark Registration was filed in this office entitling legal registration of the attached Mark to the following declared owner(s); ALPHA MARKETING, 5100 LAKEVIEW ROAD, NORTH LITTLE ROCK, ARKANSAS, 72116

The date claimed for the first use of the Mark anywhere is December 3, 2007 and the date claimed for the first use of the Mark in Arkansas is December 3, 2007. This Mark: named "LOTTERY ARKANSAS" is granted for and may be used only upon the following classification of goods or services : 16-Paper Goods & Printed Matter;35-Advertising & Business;38-Telecommunications;41-Education & Entertainment;45-Personal, and a brief description of the goods or services on which the Mark is used is: ADVERTISING AND PROMOTIONAL PROGRAM TO PROMOTE A LOTTERY AND BUSINESS PRODUCTS AND SERVICES AND/OR TO PROMOTE TIE-IN BUSINESS PROMOTIONS UTILIZING PRINTED MATERIALS, TELEVISION, RADIO, THE INTERNET AND OTHER FORMS OF ADVERTISING. This mark has been duly recorded and registered being in effect for a term of five years from the date hereof February 10, 2009.



In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at my office in the City of Little Rock, this February 10, 2009.

Charlie Daniels

Secretary of State

EXHIBIT

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Arkansas Secretary of State

Charlie Daniels

State Capitol • Little Rock, Arkansas 72201-1094
501-682-3409 • www.sos.arkansas.gov

Business & Commercial Services, 250 Victory Building, 1401 W. Capitol, Little Rock

TRADEMARKS AND SERVICE MARKS APPLICATION OR RENEWAL

1. New Application Renewal

(PLEASE PRINT OR TYPE)

FOR OFFICE USE ONLY
File Number: 800150293 Expiration Date: 2/10/2014

2. Applicant's Name: Alpha Marketing
Street Address: 5100 Lakeview Rd
City: North Little Rock State: Arkansas ZIP: _____

3. If Applicant is a corporation, give state of incorporation: _____
If Applicant is a Partnership, give state of organization and names of general partners: sole proprietor

4. Applicant is Seeking to Register: Trademark Service Mark
5. What is the classification and title of goods and services connected with mark: 16, 35, 38, 41, 45

6. Briefly describe the goods and services used in connection with this mark: An Advertising and promotional program to promote a lottery and business products and services

7. Briefly describe how the mark is used in connection with such goods and services: To encourage Arkansas residents to participate in Arkansas State Lottery and/or to promote tie-in business promotions utilizing printed materials, television, radio, the internet and other forms of advertising.

8. Mark being applied for is (Include 3 Specimens): Lottery Arkansas

9. The mark has been used in business by the applicant (or predecessor) since 12/3/07 and used in the state of Arkansas since 12/3/07. Federal Trademark if applicable _____

AFFIDAVIT

Applicant is stating that said applicant is the owner of the mark and that no other person has registered, either federally or in this State, or has the right to use the mark in this State either in the identical form thereof or in such a near resemblance thereto as might be calculated to deceive or to be mistaken therefor.

10. I, Ed Dozier, being first duly sworn, state that I am the applicant, or a lawfully authorized representative of the applicant, that I have read the above application and know its contents and that the facts stated therein are true:

Ed Dozier Signature Title owner
Ed Dozier Printed Name Contact Telephone Number _____

11. State of Arkansas
County of Pulaski

Subscribed and sworn to before me, a notary public, on
this 19th day of December, 2008

KIM DUPENS, Notary Public
Pulaski County, Arkansas
My Commission Expires: 4-1-2015
Date 12/19/2008

My commission expires: 4/1/2015 Notary Public Kim Dupens

LOTTERY

Arkansas™

ALPHA MARKETING

5100 Lakeview Road

North Little Rock, AR

501.812.6560

bkdozier@att.net



STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL

Dustin McDaniel
Attorney General

Bradford J. Phelps
Senior Assistant Attorney General
Direct dial: (501) 682-3625
E-mail: bradford.phelps@arkansasag.gov

May 21, 2009

Alpha Marketing
5100 Lakeview Road
North Little Rock, AR 72116

Re: Arkansas Lottery

To Whom It May Concern:

Our office recently received a packet of materials purportedly prepared by your company. The materials invite the recipient to register to play the Arkansas Lottery, Arkansas Lotto and Arkansas Powerball. In addition, the materials reference an active website (www.arkansaslottery.net). The website contains more information about the "Arkansas Lottery" and also offers for sale several T-shirts. One of the shirts reads, "Arkansas Lottery: My New 401 (k) Retirement Plan."

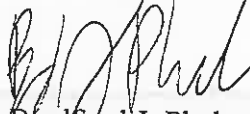
The materials, website, as well as the T-Shirts offered for sale are misleading and deceptive. The Arkansas Lottery is not affiliated with the Arkansas Lottery Commission and your marketing materials imply that there is some kind of relationship. At this time, there is no government approved lottery in place. Your materials suggest the contrary. This entire promotion violates the Arkansas Deceptive Trade Practices Act (See Ark. Code Ann. §4-88-101).

We demand that you immediately take the website down and immediately cease any marketing efforts that you are currently pursuing. Furthermore, we request a verification **in writing** within 5 days of the date of this letter that you have in fact taken these steps. If the website is not pulled down, and the marketing efforts have not ended, the odds are very good that a lawsuit will be filed against you.

If you have any questions, do not hesitate to contact me. My telephone number is 501 - 682-3625.



Sincerely,

A handwritten signature in black ink, appearing to read "Brad J. Phelps". The signature is written in a cursive style with a long, sweeping flourish extending upwards and to the right.

Bradford J. Phelps
Senior Assistant Attorney General



Alpha Marketing

Wednesday, June 10, 2009 9:00 AM

From: [REDACTED]

To: bradford.phelps@arkansasag.gov

Bradford Phelps
Arkansas Attorney General's Office

Dear Mr. Phelps:

It has been three weeks since you sent my company, Alpha Marketing, a cease and desist order (5/21/09) regarding the statewide promotion of our state-approved, registered, trademarked "Arkansas Lottery", "Arkansas Powerball" and "Arkansas Lotto" merchandise and radio station/retailer marketing programs.

In our face to face meeting a week after that order, also attended by your associate, James DePriest, you both seemed to be surprised to learn we have owned those registered trademarks for over 15 years. As I told you, we acquired those trade names after KSSN-FM, the state's #1 radio station at the time, did not renew its "Arkansas Lottery" registration. KSSN held and promoted the trade name widely for some time.

Now, we have continued to actively promote the same in various statewide media and by direct mail, person-to-person sales calls and on the Internet.

As interest in the state's new Scholarship Lottery heightens, Alpha Marketing respectfully asks you to lift the cloud over our marketing efforts as soon as possible as we have temporarily suspended our advertising in the spirit of full cooperation with your office.

In the meantime, we are preparing to resume our marketing efforts sometime in late July or early August, unless, of course, your office determines to our satisfaction that we are in some way operating unlawfully.

The threat of your lawsuit against our small business necessitates that we hold off on any purchases of thousands of dollars of merchandise inventory for obvious reasons. And, naturally under the circumstances, we do not feel free to negotiate with retailers and radio stations at this time.

We desperately need to have your final position on this matter as all this prolonged delay could be very costly to us.

As I pointed out to you and Mr. DePriest, I have an unblemished record in several Arkansas enterprises since the 1960's and I would do nothing to tarnish that record.

At the end of the day, it should be clear to all that we lawfully registered, held and used



these names well before the state voted in its Scholarship Lottery and well before the "Arkansas Lottery Commission" was even formed.

Hopefully, you will give us relief with a letter of clearance.

Sincerely,

Ed Dozier
Alpha Marketing

Davidson Law Firm, Ltd.

ATTORNEYS AND COUNSELORS AT LAW

CHARLES DARWIN "SKIP" DAVIDSON, J.D.
STEPHEN L. GERSHNER, J.D.
DARWIN DAVIDSON, J.D., L.L.M.
MATTHEW D. WELLS, J.D.
PAUL DAVIDSON, J.D.

724 GARLAND STREET
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P. O. BOX 1300
LITTLE ROCK, ARKANSAS 72203
(501) 374-9977 OFFICE
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KIM BENNEFELD, OFFICE ADMINISTRATOR

WRITERS EMAIL:
skipd@dlf-ar.com

WRITERS DIRECT TELEPHONE:
(501) 320-5110

1422 Caldwell
Conway, AR 72032
(501) 329-0666

385 Belvedere
Hot Springs, AR 71901
(501) 620-4242

August 19, 2009

Bradford J. Phelps
Senior Assistant, Attorney General
323 Center Street, Suite 200
Little Rock, AR 72201

Re: *Arkansas Lottery, Registered Trademark*
Arkansas Lotto, Registered Trademark
Arkansas Powerball, Registered Trademark

Dear Mr. Phelps:

This is to advise you that I represent the owner of the above referenced trademarks. I am attaching copies of the relevant trademark registrations.

In May, you wrote to my client, Alpha Marketing, and suggested that the use of the name of Arkansas Lottery was a deceptive practice.

He wrote to you in June stating that he was the owner of these registered trademarks and requested that you advise him further regarding your claim of deceptive practice.

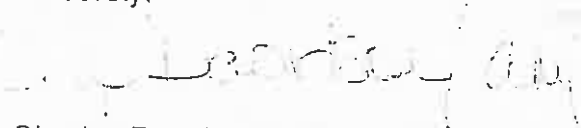
He has not heard further from you and therefore it is his intent to continue the use of his registered trademarks. As you know, these trademarks have been registered and used for over 15 years.

The use of the Arkansas Scholarship Lottery Commission name may even infringe on my client's registered trademarks.

Please advise me immediately of your intentions regarding this matter.



Sincerely,



Charles Darwin "Skip" Davidson

CDD: amf
Enclosures



STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL

Dustin McDaniel
Attorney General

Bradford J. Phelps
Senior Assistant Attorney General
Direct dial: (501) 682-3625
E-mail: bradford.phelps@arkansasag.gov

August 21, 2009

Mr. Skip Davidson
Davidson Law Firm
724 Garland Street
Little Rock, AR 72203

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Dear Mr. Davidson,

Thank you for your letter concerning your client, Alpha Marketing. As I explained to you on the telephone when we last spoke, I have nothing further to add to this matter.

I have referred your client's letter to the Arkansas Lottery Commission. While I disagree with many of the assertions in your letter, I will tell you that my office will not be taking any further action against Alpha Marketing at this time. Should that position change, I will of course let you know.

Cordially yours,

A handwritten signature in black ink, appearing to read "Bradford J. Phelps".

Bradford J. Phelps
Senior Assistant Attorney General

