

## Georgia video games spawn charges of payoffs, bribery and betrayal

An envelope stuffed with cash. Under-the-table payoffs. Backstabbing treachery over contracts worth millions.

Welcome to the underbelly of Georgia's \$675 million-a-year video gaming industry, which produces enough accusations of fraud and corruption to fill a season of "The Sopranos."

Three years ago the Georgia Lottery Corporation began regulating the 22,000 coin-operated machines in gas stations, bars and convenience stores. Since then, a steady stream of tawdry allegations have exposed a side of the flashing, noisy games that most Georgians never see.

The new enforcement responsibility has exposed the Lottery to a messy underworld in which companies regularly accuse one another of breaking the law; try to steal one another's business; and ask the Lottery to play referee.

The role has forced Lottery officials to pick winners and losers as they police an industry that some have likened to the wild, wild West.

The Atlanta Journal-Constitution found details of the industry's dark side in a review of hundreds of pages of court filings, transcripts and complaints. At least one ongoing case accuses lottery officials of showing favoritism to industry titans with politically connected lawyers.

The games have always been controversial with those who see them as addictive gambling devices. But they have been a big winner for the state, generating \$47.5 million last fiscal year for the HOPE scholarship and pre-kindergarten programs.

Joseph Kim, senior vice president and general counsel for the Lottery, said it's a rough-and-tumble business that is difficult to regulate. But there have been major advances in the past three years, he said, such as hooking up all games to a central accounting system to accurately record revenue.

"It's a pretty cut-throat business," Kim said. "Competitors will go and rat one another out. Sometimes they are legitimate (complaints) and other times they're just looking for the lottery to go and behead somebody."

Those figurative beheadings usually happen in court and hearing rooms. Charges filed against game or store owners are reviewed in administrative hearings. Cases can involve license revocations that cause companies to lose millions of dollars in business and allow their competitors to scoop up the lost cash.

The game owners hold coveted master licenses that allow them to legally place their machines in stores, and split the proceeds with store owners. Earlier this year, the Lottery auctioned four new master licenses for just over \$1 million each; established licenses with machines already in stores can go for more than \$2 million.

The games are varied, but most are versions of slot machines: Dollars feed them; a spin button sends three wheels in motion; three of the same symbol on the same line makes a winner. In Georgia, where the games must have an element of “skill,” players can move any one symbol one space up or down to match three in a row.

What goes on behind the play is a different story. Game and store owners haggle over revenue spits, under-the-table “inducement” payments and other practices on which the Lottery has sought to clamp down.

Attorney Sanford Wallack’s firm represents both game and store owners. He said some of the largest game owners “go way back” and helped get the industry off the ground in Georgia.

“It is very competitive and there is a long history ... of these guys undercutting one another, fighting over the same customers,” Wallack said.

#### Under reported revenues for years

The state hired a company, Intralot, to connect all games to a central accounting system in 2014. It took a year to complete the task, but once the machines were connected the amount of revenue due the state doubled.

Lottery officials have said they believe store and machine owners under-reported revenue for years.

But even the company that helped the lottery collect more money became embroiled in allegations of corruption.

Ray Martin, a mid-level supervisor of Intralot’s Georgia technicians, admitted last year that he sold lists of convenience stores that recently had their games disconnected — accepting at least \$4,000 from two companies in exchange for inside information that gave them a jump on new business prospects.

John Heinen, a senior vice president who supervises the Lottery’s investigators, dragged a confession out of Martin during an interview last year, according to a transcript obtained by The Atlanta Journal-Constitution. During the interrogation, Heinen pressured Martin to give him the companies’ names, saying: “I don’t think they need to be in business.”

Martin told Heinen that employees at Midtown Vending and Roshan Foods approached him for the information.

“Any other(s) ... that have done this or have approached you to do it?” Heinen asked.

“There has been tons of them, to tell you the truth,” replied Martin, who could not be reached for comment by the AJC.

Martin lost his job, but the companies did not lose their licenses. The lottery negotiated settlements: \$50,000 fines and probation, which allowed both to continue operating their games.

Attorney Mark Spix, a vocal critic of Lottery officials, said the negotiated settlements amounted to nothing more than speeding tickets.

“Some of these stores can do \$50,000 a week,” Spix said. “They paid \$4,000 for a list of locations, a \$50,000 fine and they kept their licenses. What’s the disincentive to not pay the bribe?”

But attorney **Josh Belinfante**, whose firm represents Midtown Vending, said the premise for any sanction against the companies was “on very shaky ground” because there are no specific regulations against buying the information.

“Intralot was not an agent of the Lottery,” Belinfante said. “As is often the case, we were not happy with the settlement but it’s better than the uncertainty of litigating it out and having it unresolved for years.”

#### Gaming lawyer helps Lottery rewrite law

Belinfante is a politically connected attorney, who was executive counsel in Gov. Sonny Perdue’s administration and counsel for David Perdue’s senatorial campaign.

During the 2015 legislative session, while Belinfante was representing the game owners’ association, he and the Lottery set about making several amendments to the amusement gaming law that showed the industry’s muscle at the state Capitol.

The move came after Spix and attorney Steven Kushner won a major ruling in Gwinnett Superior Court that would have voided all contracts between the state’s largest game owners and stores. The ruling also could have had statewide impact in other contractual disputes.

The change authored by Belinfante eviscerated the judge’s ruling by grandfathering the contracts.

Kim said the Lottery didn’t have an official position on the contract issue, but was concerned with a couple of other provisions in the law. So Kim incorporated Belinfante’s language verbatim and negotiated the other fixes with him, according to email exchanges between the two that were obtained by the AJC.

All of that occurred while the Georgia Court of Appeals was considering the Gwinnett County contract ruling.

Belinfante said the legislative tweak had no impact on the Court of Appeals’ ruling.

“The day the Court of Appeals ruled is the day the House passed its version of the bill,” Belinfante said. “The statute had nothing to do with the Court of Appeals’ decision.”

Spix said it was inappropriate for the Lottery to allow Belinfante to rewrite a portion of the law that was being considered on appeal, regardless of the ruling.

“Clearly the change mattered, that’s why the association paid him to do it,” Spix said. “It wasn’t done for kicks and giggles.”

#### Attorney: Lottery officials play favorites

Spix has complained loudly about what he sees as the disparate treatment of his clients compared to other master operators such as Midtown Vending and Ultra.

Most of those complaints have come in Spix’s defense of Georgia Atlanta Amusements (GAA), a game owner charged with making illegal inducement payments to store owners in exchange for placement of its games in those stores. Inducements were outlawed in 2013 when the Legislature also required machine and store owners to split revenues 50-50.

The punishment requested by Lottery attorneys in the GAA case was revocation of the company’s license for 15 years, and a \$150,000 fine.

Heinen said inducement cases are hard to prove, and the case against GAA was uniquely strong because of video evidence.

Kim, the Lottery's general counsel, said the accusation that his staff plays favorites is absurd. The Lottery's outside auditing firm is currently performing a forensic audit on Ultra's books, based on a complaint and information provided by Spix, according to Kim.

#### Audio, video and an envelope of cash

The details of the GAA case, which concluded late last month, throw a spotlight on the competitive and complicated nature of Georgia's gaming industry, and the challenges in regulating it.

The case started in June 2013, when attorney Les Schneider says two anonymous packages were delivered to his Buckhead office. One contained digital audio and video recordings of two men speaking Hindi and negotiating some kind of deal in a convenience store; the other contained an envelope stuffed with cash.

Schneider was a managing partner for Wimberly, Lawson, Steckel, Schneider & Stine, a firm that had performed legal work for the game owners' trade association since the 1970s and represented some of the largest owners.

At the time, GAA had filed nearly a dozen complaints with the Lottery, accusing some of Schneider's clients of making payments to store owners.

Schneider testified at the administrative hearing that he watched the video and recognized one of the two men as a GAA employee who left a package for the other person.

Weeks after receiving the packages, Schneider said, he was visited at his office by a person who told him the envelope of money was the same seen in the video, and was an illegal inducement payment by GAA. Schneider testified that he did not remember the man's name.

"I finally decided that this was not for me to investigate," Schneider said during the hearing.

Schneider testified that he tried to give the cash to Lottery officials, but they wouldn't accept it.

#### 'This industry and these outlaws'

By May of the next year, Lottery officials still had not taken action against GAA, and Schneider wrote a letter urging them to prosecute what he called a "smoking gun."

"A number of people in the industry are concerned as to what they perceive as a lack of enforcement toward this company and the message that it sends," says the letter, which also urged enforcement action against several other companies. "A few strong examples will bring the right ethical standards to this industry and these outlaws."

Kim passed the letter on to his staff, but not before making two hand-written notations: "Wimberly Lawson representing any of the parties?" and "Are we being asked to pressure in a private dispute?" The references were to the fact that most everyone involved in the case, including Schneider, also had stakes in the separate Gwinnett dispute about the validity of contracts between game owners and stores.

Kim said he decided to pursue the investigation despite Schneider's possible conflicts of interest because the evidence was compelling.

"Whether Les was neutral or not didn't affect my decision to tell staff to get the video translated and find out what was on it," Kim said. "The video was the video, and I wasn't going to ignore it just because I thought Les may have a dog in the fight."

Schneider testified at the hearing that the letter submitted to the Lottery “was done in good faith.” His attorney, Mike Bowers, declined to answer the AJC’s questions, other than to say that the money is “accounted for and in our safe, where it will stay until all this litigation is over.”

‘OK, then give me \$20,000’

An interpreted transcription of the audio recording runs 59 pages and covers three days of haggling between store owner Muhammad Ali and GAA employee Rohil “Ricky” Varani. The men negotiated back and forth over the amount of “down payment” and the percentage of game revenue each would keep.

The time stamp on the video is July 2013 — three months after the law changed to prohibit inducements and mandate a 50-50 revenue split.

At one point late in the negotiation, Varani says there are two types of deals: one in which Ali keeps 60 percent of the game revenue; the other a 50-50 split with a \$10,000 to \$12,000 cash payment. Both scenarios are illegal.

“OK, then give me \$20,000,” Ali responds.

The men eventually sign a contract after agreeing to a 60-40 split and a \$7,000 payment, according to the video and the audio transcript.

Hearing Officer Robert Wilson delivered his executive order in the GAA case Aug. 25, revoking the company’s master license for five years and imposing a \$50,000 fine.

In his ruling, Wilson wrote the audio and video evidence proved one count of paying an inducement to a store owner.

Lottery rules require Spix to ask the hearing officer and Lottery chief executive Debbie Alford to reconsider the decision. Spix, who says the recordings were illegally produced and should not have been admitted into evidence, said he thinks the case is headed for Fulton Superior Court if the ruling is not reversed.

For more information, please contact Josh Belinfante or Alec Denton.