

STATE OF NORTH CAROLINA
COUNTY OF ONSLOW

GIFT SURPLUS, LLC, and
SANDHILL AMUSEMENTS, INC.

Plaintiffs,

vs.

STATE OF NORTH CAROLINA, ex rel.
ROY COOPER, GOVERNOR, in his official
capacity; BRANCH HEAD OF THE
ALCOHOL LAW ENFORCEMENT
BRANCH OF THE STATE BUREAU OF
INVESTIGATION, MARK J. SENTER, in
his official capacity; SECRETARY OF THE
NORTH CAROLINA DEPARTMENT
OF PUBLIC SAFETY, ERIK A. HOOKS, in
his official capacity; and DIRECTOR OF
THE NORTH CAROLINA STATE
BUREAU OF INVESTIGATION, BOB
SCHURMEIER, in his official capacity,

Defendants.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 13 CVS 3705

2018 FEB -2 A 8:44

ONSLOW CO., C.S.C.

BY

JUDGMENT

THIS MATTER coming on to be heard and being heard for trial before the undersigned Judge at a special session of the Onslow Superior Court in Onslow County, North Carolina on December 5, through December 7, 2017 upon the Plaintiffs' Second Amended Complaint seeking a declaratory judgment under the Uniform Declaratory Judgment Act and permanent injunctive relief, and the Court, after hearing the evidence, declares that (i) the Gift Surplus sweepstakes system, which is operated by Sandhill Amusements, Inc. and other operators, is legal, and (ii) the Gift Surplus sweepstakes system is not in violation of applicable state and federal statutes and regulations. This ruling applies to the Gift Surplus, LLC sweepstakes system.

FINDINGS OF FACT

Based upon the evidence presented at the trial including, but not limited to, uncontroverted expert testimony presented by the Plaintiffs' expert witnesses, the Court finds, based on a preponderance of the evidence, as follows:

1. This Court has jurisdiction over the subject matter of this action and over the parties.
2. The parties are properly before the Court having been duly noticed to appear.

3. Plaintiff Gift Surplus, LLC (hereinafter, Plaintiff Gift Surplus) was represented by George B. Hyler of the firm Hyler & Lopez, P.A. of Asheville, NC, and Plaintiff Sandhill Amusements, Inc. was represented by Michael A. Grace of the firm of Grace, Tisdale & Clifton, P.A. of Winston-Salem, NC.
4. ~~The Defendants, State of North Carolina et al. (hereinafter, referred to as Defendants or the State), were represented by Special Deputy Attorney General J. Joy Strickland.~~
5. Plaintiff Gift Surplus is a duly licensed Arizona limited liability company and is registered to do business in North Carolina as a foreign limited liability company under North Carolina law.
6. Sandhill Amusements, Inc. (hereinafter, Plaintiff Sandhill Amusements) is a North Carolina corporation, existing by and under the North Carolina General Statutes.
7. Dr. Robert Robicheaux testified as an expert witness for the Plaintiffs. Dr. Robicheaux is a retired Professor of Marketing and Marshall Scholar at the School of Business at the University of Alabama at Birmingham. He holds MBA and PhD degrees in business, marketing, and marketing operations research from Louisiana State University. He has worked for the National Retail Federation, the Alabama Retail Federation, and the Alabama Department of Revenue tracking the growth in online retail e-commerce. He has served on the Board of Directors of the Alabama Retail Association and has consulted with the Alabama Department of Revenue regarding retail revenue calculations and impacts of e-commerce on state revenues. Dr. Robicheaux has had a long, distinguished career in higher education and has extensive knowledge and experience in the fields of marketing, e-commerce, and gamification. He has testified in both state and federal court cases on sixty (60) or more occasions in the fields of marketing and marketing strategy, and he has been accepted by courts as an expert regarding sweepstakes promotions on at least four (4) previous occasions.
8. The Court finds that Dr. Robert Robicheaux is well qualified as an expert in the fields of marketing, e-commerce, and gamification. The Court further finds his testimony and opinions to be reliable and credible. The Court has evaluated the credibility, demeanor, and expertise of this witness and has given due weight and consideration to all competent testimony, and finds that such testimony and opinion aided and assisted the Court to understand the evidence and determine the facts in issue.
9. Mr. Paul Lofgren testified as an expert witness for the Plaintiffs. Mr. Lofgren holds a Bachelor's Degree in Business Administration from the University of San Diego, with an emphasis in Accounting. He is an investor and is in charge of business development for Free Slot Games of Las Vegas since 2014, which is a company that creates content for social gaming sites that operate on mobile devices on Android and Apple iOS. Free Slot Games of Las Vegas builds relationships and does business with third parties that have a brand name, such as Ripley's Believe It or Not!, Binion's, etc. He is also the President and Founder of Redhorse Advisory Group, which provides consulting services

in the gaming industry. He has served in that capacity since 2008. He has thirty (30) years of work experience in the industry. He has worked with the Nevada Gaming Control Board as an agent, which licenses and regulates gaming in Las Vegas, and he has worked for several companies since then, including Valley Games and LC Video Lottery and Technologies.

10. The Court finds that Mr. Paul Lofgren is well qualified as an expert in the fields of social gaming development and sales. The Court further finds his testimony and opinions to be reliable and credible. The Court has evaluated the credibility, demeanor, and expertise of this witness and has given due weight and consideration to all competent testimony, and finds that such testimony and opinion aided and assisted the Court to understand the evidence and determine the facts in issue.
11. Mr. Nick Farley testified as an expert witness for the Plaintiffs. Mr. Farley is the President and Founder of Nick Farley & Associates. He has a Bachelor of Science Degree in Electrical Engineering and Computer Science from the Stevens Institute of Technology in New Jersey. He has worked with New Jersey Gaming Enforcement, where he was in charge of testing electronic gaming devices. He also worked for seven (7) years for Gaming Laboratories International, evaluating and testing various gaming devices and systems for use worldwide. In 2009, he started his own company evaluating and researching gaming systems in various markets, which has included the testing of sweepstakes systems. His company is one of only three testing labs that are recognized in the United States for reviewing gaming devices and systems primarily for regulatory compliance. He has been qualified as an expert at least a dozen times for state, federal, and tribal tribunals, including in the courts of this State.
12. The Court finds that Mr. Nick Farley is well qualified as an expert in the fields of game testing and game classification. The Court further finds his testimony and opinions to be reliable and credible. The Court has evaluated the credibility, demeanor, and expertise of this witness and has given due weight and consideration to all competent testimony, and finds that such testimony and opinion aided and assisted the Court to understand the evidence and determine the facts in issue.
13. Dr. Neil Mulligan testified as an expert witness for the Plaintiffs. Dr. Mulligan is a professor in the department of psychology and neuroscience at the University of North Carolina-Chapel Hill. He holds Bachelors of Science degrees in psychology and computer sciences from Duke University, and he holds his Master's Degree and PhD in cognitive psychology from the University of North Carolina-Chapel Hill. Dr. Mulligan's expertise is in cognitive psychology, which is the study of attention, learning, memory, perception, and language, and he specializes in the study of memory, attention, and human learning, which includes the study of skill and skill acquisition. He is currently the editor-in-chief of the *Journal of Applied Research in Memory and Cognition*, and he has been qualified to testify as an expert witness twice in the State of North Carolina and twice in the State of Texas.
14. The Court finds that Dr. Neil Mulligan is well qualified as an expert in the fields of

cognitive psychology, human memory, and learning, which includes the fields of research and skill acquisition. The Court further finds his testimony and opinions to be reliable and credible. The Court has evaluated the credibility, demeanor, and expertise of this witness and has given due weight and consideration to all competent testimony, and finds that such testimony and opinion aided and assisted the Court to understand the evidence and determine the facts in issue.

15. The State has been aware of three of these expert witnesses throughout the history of this litigation and has been aware of the nature of their testimony. The State elected not to offer any expert evidence to dispute these expert's opinions in any way.
16. Plaintiff Gift Surplus is a technology company that specializes in e-commerce and advertising with an emphasis on the point-of-contact with customers in convenience stores and other retail establishments. Its e-commerce websites (www.gs.social and www.giftsurplus.com) and its GS.socialgames Apps (which are available on Apple's App Store and Google's Play Store) offer customers the ability to purchase various tangible goods as well as the ability to purchase entertaining, social games that are played online. Plaintiff Gift Surplus has modified its business model during the pendency of this litigation, which is a customary practice for many businesses.
17. Gift Surplus operates a lawful and legitimate e-commerce business and in support thereof offers to the public a legitimate promotional sweepstakes.
18. Plaintiff Sandhill Amusements and other operators of the Gift Surplus promotional sweepstakes system distribute stand-alone Gift Surplus kiosks to numerous locations across the State. These kiosks have been placed into operation in various convenience stores and other retail establishments across the State of North Carolina. The principal business model is to place four (4) kiosk in any business location.
19. Numerous law enforcement agencies at both the state and local levels have, prior to and since the filing of this action, raided businesses that use Gift Surplus kiosks, confiscated equipment, and charged employees of the establishment with numerous criminal charges. In all of the prosecutions over the last four years, Plaintiffs have obtained, on behalf of such persons, not guilty verdicts or dismissals.
20. Due to the threat of and the actual fact of numerous criminal charges against persons operating Gift Surplus kiosks, the issues raised by Gift Surplus' sweepstakes promotion creates a justiciable issue under the Uniform Declaratory Judgment Act and a declaratory judgment is necessary to effectively protect property rights and to prevent irremediable injuries to the rights of persons.
21. Customers purchase from the Gift Surplus stand-alone kiosks gift certificates equal to the face value of money inserted into the kiosk, and the customer is then able to go to the www.gift.surplus.com website and apply the gift certificate to the purchase of any one of thousands of consumer goods. The consumer goods are priced at competitive market prices.

22. Customers can also go to the www.gs.social website and apply the full value of the customers' gift certificate to the purchase of social gaming credits provided to the customer online. This process was demonstrated in the courtroom for the Court. It was also exhibited by video footage from an actual store location where the Gift Surplus kiosks are operating in the Town of Cherokee, North Carolina. This process was an addition to the Plaintiffs' business model since the beginning of the litigation.
23. Social gaming on www.gs.social does not provide the player with an opportunity to win a prize or anything of value other than the possible personal satisfaction of having played the game well. The social video games are priced at competitive market prices.
24. Plaintiff Gift Surplus employs a lawful promotional sweepstakes system to promote the sale of gift certificates and, ultimately, tangible goods and social gaming products purchased with such gift certificates.
25. Sweepstakes are governed by N.C.G.S. § 14-306.4 and other statutes. If operated in compliance with all statutes, a promotional sweepstakes is lawful in North Carolina (as they are in many other States), and are offered to the public by many major retailers and manufacturers. Many such sweepstakes employ, in varying degrees, the use of some electronic device in order to participate therein. A promotional sweepstakes is a valid form of marketing in North Carolina that can be more effective at attracting new customers than traditional advertising. It is one of the most cost effective advertising methods. This is particularly true for a start-up company such as Gift Surplus which has no established brand name in the public marketplace.
26. All eligible customers who purchase a gift certificate from Gift Surplus kiosks are given, without cost, free entries into the Gift Surplus promotional sweepstakes. Customers are not required, however, to participate in the sweepstakes. The gift certificates can be purchased and redeemed without participation in the sweepstakes.
27. In addition, the Gift Surplus sweepstakes system offers multiple "no purchase necessary" methods to enter the sweepstakes without a purchase. Regardless of whether the customer enters the sweepstakes through a purchase or with a "no purchase necessary" method, all prizes in the remaining pool are made available with equal dignity. No consideration is required to enter the sweepstakes.
28. Under Phase I of the Gift Surplus sweepstakes promotion, the sweepstakes prizes are randomly selected from a finite pool of prizes which is a requirement of all sweepstakes under federal regulation. This particular phase of Gift Surplus' sweepstakes promotion does not involve the exercise of skill because a requirement for a lawful sweepstakes is that it be "based upon chance." See N.C.G.S. §14-306.4(a) (5).
29. Under Phase II of the Gift Surplus sweepstakes promotion, the video games in the Gift Surplus sweepstakes system are dependent on *skill* to realize a prize. There are several game themes on the Gift Surplus kiosks. On average, there are 60 winning combinations

in each game theme, some of which are defined by general descriptions, and thus some winning combinations are not readily apparent to the player. A novice player will increase in accuracy and speed as he gains more experience and understanding of how to play the games. Also, data from actual game play in the field and data from lab tests, both regarding the single-nudge-only games, reveal error rates that show the games are dependent on skill. Such data also found consistency in performance which shows a high degree of skill, which one would not find with a chance-based game.

30. Under Phase II of the Gift Surplus sweepstakes promotion, the video games in the Gift Surplus sweepstakes system are dependent on *dexterity* to reveal a potential prize. All of the sweepstakes games on the kiosks require both physical dexterity (i.e., fine motor control of the hands and visual accuracy) and mental dexterity (i.e., the ability to recognize and implement winning patterns). As described in paragraph 29 above, the field data and the lab data support this finding of fact.
31. In Phase II of the Gift Surplus promotional sweepstakes, the games utilize a "double nudge" feature that increases the amount of skill and dexterity to reveal a prize. The sweepstakes participant first must review the play of the video game and determine if a single nudge is required or if a double nudge is required to achieve the best result. If a double nudge is required, the sweepstakes participant must look at the array of symbols and determine how to move two of the symbols to align a winning combination along the center line of the display. Because the customer must evaluate the game to determine the number of nudges required and then take the required action (one nudge or two separate nudges), the amount of skill and the amount of dexterity have been increased. Although cross examination showed that the operator of the kiosk has the option to turn off the double nudge feature, the system exhibited by the Plaintiffs in court contained the double nudge feature.
32. In Phase II of the Gift Surplus promotional sweepstakes, the awarding of all prizes is dependent on the skill and dexterity of the player. Indeed, at this phase, chance plays no role at all.
33. Overall, in the Gift Surplus sweepstakes promotion, skill predominates over chance. Moreover, chance does not predominate over skill in the Gift Surplus sweepstakes promotion.
34. One methodology used in the industry to determine the existence and the level of skill and dexterity in sweepstakes games under evaluation is to compare such games to similar games employed by others that are operated under similar rules and regulations. Plaintiffs introduced for the record the Tribal-State Compact between the Eastern Band of Cherokee Indians and the State of North Carolina. The compact provides: "The certification commission shall also have responsibility for testing and approving of all video games sought to be offered by the tribe at its gaming facilities for compliance with skill and dexterity requirements set out in N.C.G.S. 14-306 and 14-306.1A or in subsequent legislation enacted by the General Assembly". Witnesses Nick Farley testified and the Court finds as a fact that such Tribal-State Compact requires that those

skill games operated by the Cherokee Nation at Harrah's Casino in Cherokee, NC must comply with Chapter 14 of the North Carolina General Statutes as to the existence and level of skill and dexterity required. Mr. Farley and Mr. Mulligan visited Harrah's Casino shortly before their testimony in this matter and determined, and the Court finds as a fact, that the skill and dexterity required in games used by the Gift Surplus sweepstakes system far exceeds that skill and dexterity required to win a prize on similar skill games offered at Harrah's Casino in Cherokee, NC.

35. The Gift Surplus sweepstakes system is not server-based.
36. The motherboard that operates the video games inside the Gift Surplus sweepstakes kiosks is not connected to the Internet.
37. The games on the Gift Surplus promotional sweepstakes system, when revealing a potential prize, never automatically result in a winner. At least one nudge action is required, which requires the customer to exercise both skill and dexterity.
38. Versions 1.03 and 1.22 of the Gift Surplus promotional sweepstakes system do not contain a "governor" and thus every randomly drawn potential prize is pulled from the finite pool when selected.
39. Every entry into the Gift Surplus sweepstakes system is a potential winner. In other words, every potential prize has a positive value.
40. The last potential prize in the finite pool of prizes is always a potential winner and, in addition, is an accumulation of the prize amounts not awarded to participants who did not exercise the requisite amount of skill and dexterity to win such prizes when the opportunity to do so was presented to such participants.
41. All gift certificates issued from a Gift Surplus kiosk have independent value to the customer in an amount equal to the purchase price of such gift certificate. Regardless of the outcome of the sweepstakes, the customer is always the owner of the gift certificate he has purchased.
42. The Gift Surplus e-commerce websites are functional and valid e-commerce platforms. On the e-commerce websites, there are a wide variety of tangible products for sale and a wide variety of social gaming products to play online for a fee. Such product offerings are changed periodically based upon demand and customer preferences. Gift certificates purchased from a Gift Surplus kiosk can be used to purchase tangible products or play the video games on the websites. Credit cards are also accepted as a valid form of payment on both the websites and the mobile Apps. If the Gift Surplus App has been installed on a smart phone or tablet, customers can use their gift certificates to purchase access to and play video games on such devices. All of the social video games on the e-commerce websites and the Gift Surplus mobile Apps are for entertainment only (i.e., there are no prizes associated with these video games).

43. The social gaming industry is a rapidly growing industry. In a recent social gaming industry transaction, a company named Big Fish Games, Inc. has signed an agreement to be sold for approximately \$990 million.
44. Plaintiff Gift Surplus is utilizing its sweepstakes promotion to market and emphasize its social gaming business model (i.e., play for fun).
45. The Gift Surplus sweepstakes promotion is a unique, innovative, and effective way to acquire new customers for the Gift Surplus e-commerce and social gaming websites. Customers who patronize convenience stores are a good demographic for social gaming products as well as consumer products. Convenience stores have a high volume of such customers.
46. At the time Judge Jenkins issued a preliminary injunction in favor of Plaintiffs pursuant to an Order dated November 4, 2013, the Gift Surplus sweepstakes promotion employed version 1.01 of the Gift Surplus software.
47. It is commonplace in the software development industry to (i) constantly improve software to identify bugs and correct other issues, and (ii) maintain version control when modifying the source code. In other words, each time the source code is changed (with one change or a group of changes), the version number is changed. Only a few versions of the Gift Surplus sweepstakes software were ultimately released into the marketplace.
48. Certain changes to the Gift Surplus software were specifically designed to address the deficiencies of version 1.01 as enumerated in the dissenting opinion of the North Carolina Court of Appeal's ruling (i.e., Sandhill Amusements, Inc. v. Sheriff of Onslow County, 762 S.E.2d 666 (2014)), the same having been adopted as the majority opinion and decision by the Supreme Court of North Carolina.
49. Prior to the filing of the First Amended Complaint on November 12, 2015 in this matter, Plaintiff Gift Surplus had employed version 1.03 of its proprietary sweepstakes system and had made changes that Mr. Farley testified were made to further innovations and to become more compliant with applicable North Carolina law.
50. Prior to the filing of the Second Amended Complaint on February 13, 2017 in this matter, Plaintiff Gift Surplus had implemented in the field the double nudge feature and the potential winner every time feature. Such features were incorporated into versions of the software subsequent to version 1.03 and prior to version 1.22.
51. In both its First and Second Amended Complaints, Plaintiffs notified Defendants that they had "added features to the computer games on the kiosk that have higher levels of both skill and dexterity..." At no time during the pendency of the litigation did Defendants take any discovery actions to explore the nature of the "added features" that Plaintiff Gift Surplus had installed in the games.
52. At the time of trial of this matter, Plaintiff Gift Surplus had already implemented version

1.22 of its software in approximately 80% of its locations in North Carolina

53. The primary difference between version 1.03 and version 1.22 is a feature that requires the participant in the Gift Surplus sweepstakes to exercise more skill and more dexterity to realize a prize (i.e., the "double nudge"). The difference between the two versions of software does not change the character or material nature of the software, and the changes have not impacted the Defendants' notice as to the nature of the claims in this action or its ability to defend itself. The Defendants' admission that it made a conscious litigation strategy decision not to depose any of Plaintiffs' expert witnesses or conduct any discovery as to this issue reinforces this finding.
54. The Gift Surplus sweepstakes promotion, as presented at the trial, is a lawful sweepstakes promotion, and such sweepstakes promotion is not designed to avoid applicable law. The Defendants provided no persuasive evidence that the Gift Surplus sweepstakes promotion has been, or is being, operated in any manner in violation of N.C.G.S. §14-306.4.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, this Court concludes the following:

1. All of the parties are properly before the Court having received adequate and proper notice and the Court has jurisdiction over the parties to this action.
2. This matter was properly brought under N.C.G.S. Chapter 1, Article 26, more commonly known as The Uniform Declaratory Judgment Act, and as such this Court is a proper forum to hear such matter and thus the Court has jurisdiction over the subject matter.
3. This case presents a justiciable issue under the Uniform Declaratory Judgment Act and is necessary to effectively protect property rights and to prevent irreparable injuries to the rights of the Plaintiffs.
4. Plaintiff Gift Surplus' proprietary sweepstakes system comports with all of the regulatory scheme of N.C.G.S. §14-306.4.
5. The Gift Surplus sweepstakes system otherwise comports with all other federal and state regulations governing the operation of a legitimate promotional sweepstakes.
6. Under Phase I of the Gift Surplus sweepstakes promotion, the sweepstakes prizes are randomly selected from a finite pool of prizes which is a requirement of all sweepstakes under state and federal law. In Phase II of the Gift Surplus sweepstakes promotion, chance plays no role.
7. Overall in the Gift Surplus sweepstakes promotion: (i) skill and dexterity predominate

over chance, (ii) chance does not predominate over skill, (iii) skill and dexterity determine the final outcome, and chance cannot override or thwart the exercise of skill and dexterity, and (iv) participants in the sweepstakes promotion can use their superior knowledge, attention, dexterity, and practice to gain the victory.

8. The introduction of version 1.22 does not make moot the otherwise justiciable issues raised in version 1.03 and the Defendants were not prejudiced by the introduction of a newer version in that such new version was nearly identical to the older version and any change was not substantial. Version 1.22 of the Gift Surplus software does not substantially alter version 1.03.
9. Promotional sweepstakes are legal and lawful in North Carolina and as such any sweepstakes which is otherwise legal under both N.C.G.S. §14-306.4 and applicable federal rules and regulations does not violate N.C.G.S. §14-292, N.C.G.S. §14-293, N.C.G.S. §14-297, N.C.G.S. §14-301, N.C.G.S. §14-304, N.C.G.S. §14-306, N.C.G.S. §14-306.1A, N.C.G.S. §14-306.3, or N.C.G.S. §14-306.4.
10. The Plaintiffs are also entitled to permanent injunctive relief, as requested in their Second Amended Complaint.

Based upon the foregoing Findings of Fact and Conclusion of Law, it is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. The Gift Surplus sweepstakes system, and Plaintiff Sandhill Amusements' use and operation of the Gift Surplus sweepstakes system, do not violate any of the provisions of N.C.G.S. §14-306.4.
2. The Gift Surplus sweepstakes system is lawful and comports with all other federal and state regulations governing the operation of a legitimate promotional sweepstakes.
3. As long as the Gift Surplus sweepstakes operates in compliance with N.C.G.S. §14-306.4 and other applicable federal rules and regulations governing the operation of sweepstakes, the Gift Surplus sweepstakes system does not violate any of the provisions of N.C.G.S. §14-292, N.C.G.S. §14-293, N.C.G.S. §14-297, N.C.G.S. §14-301, N.C.G.S. §14-304, N.C.G.S. §14-306, N.C.G.S. §14-306.1A, N.C.G.S. §14-306.3, or N.C.G.S. §14-306.4.
4. The Defendant Governor of the State of North Carolina, the Defendant Secretary of the North Carolina Department of Public Safety, the Defendant Director of the North Carolina State Bureau of Investigation, and the Defendant Branch Head of the Alcohol Law Enforcement Branch of the State Bureau of Investigation, in their official capacities, and to the extent authorized by Rule 65 of the North Carolina Rules of Civil Procedure, all of their officers, agents, servants, and employees, and any person in active concert or participation with any of the Defendants or any of their officers, agents, servants, and employees, are hereby:

(a) Permanently enjoined from enforcing any of the provisions of N.C.G.S. §14-292, N.C.G.S. §14-293, N.C.G.S. §14-297, N.C.G.S. §14-301, N.C.G.S. §14-304, N.C.G.S. §14-306, N.C.G.S. §14-306.1A, N.C.G.S. §14-306.3, and N.C.G.S. §14-306.4, against persons who display or sell Plaintiff Gift Surplus' products, or persons who operate or place into operation any equipment associated with Plaintiff Gift Surplus' sweepstakes system;

(b) Permanently enjoined from compelling or attempting to compel, coerce or persuade any retail establishment in North Carolina to remove Plaintiff Gift Surplus' products and equipment associated with Plaintiff Gift Surplus' sweepstakes system or to refrain from selling or operating Plaintiff Gift Surplus' sweepstakes system;


(c) Permanently enjoined from warning or threatening any retail establishment or other alcoholic beverage licensee in North Carolina that it may be subject to criminal or administrative sanctions, such as the loss or suspension of an alcoholic beverage sales license, if it continues to display or sell Plaintiff Gift Surplus' products or operate equipment associated with Plaintiff Gift Surplus' sweepstakes system;

(d) Permanently enjoined from citing any retail establishment or other alcoholic beverage licensee in North Carolina for criminal or administrative offenses or violations, or initiating any action to suspend or revoke alcoholic beverage licenses by reason of such establishment's display or sale of Plaintiff Gift Surplus' products or operation of equipment associated with Plaintiff Gift Surplus' sweepstakes system; and

(e) Permanently enjoined from making or issuing any statement outside of the proceedings in this case alleging or contending that Plaintiff Gift Surplus' products and equipment associated with Plaintiff Gift Surplus' sweepstakes system constitute an illegal gambling arrangement, lottery, game of chance, slot machine or unlawful device.

5. This ruling applies only to the Gift Surplus sweepstakes system.
6. This matter is hereby retained by this Court for such other relief as the Court may deem just and proper.

THIS, the 31st day of January, 2018.


Ebern T. Watson III
Superior Court Judge Presiding