

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

<b>SHELTON CHARLES,</b>	§	
<b>Plaintiff,</b>	§	
	§	
<b>v.</b>	§	
	§	<b>Civil Action No. A-06CA158LY</b>
<b>TEXAS LOTTERY COMMISSION AND</b>	§	
<b>GARY GRIEF IN HIS INDIVIDUAL AND</b>	§	
<b>OFFICIAL CAPACITY,</b>	§	
<b>Defendants.</b>	§	

**PLAINTIFF SHELTON CHARLES' FIRST SET OF INTERROGATORIES TO  
DEFENDANT TEXAS LOTTERY COMMISSION.**

TO: Defendant, Texas Lottery Commission, by and through its attorney of record, Mr. William Deane, Assistant Attorney General, P.O. Box 12548, Austin, Texas 78711.

The following Interrogatories are propounded to the above Defendant and are to be answered by and in accordance with the Federal Rules of Civil Procedure. Answers are requested within thirty (30) days of service hereof at the offices of Plaintiff's attorneys, Howard & Kobelan, 100 Congress Avenue, Suite 1720, Austin, Texas 78701, as set forth in the Federal Rules of Civil Procedure.

Respectfully submitted,

**HOWARD & KOBELAN**  
100 Congress Avenue, Ste. 1720  
Austin, Texas 78701  
(512) 480-9300  
(512) 480-9374

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Derek A. Howard  
State Bar Number 10064600  
Robert W. Schmidt  
State Bar Number: 17775429

**ATTORNEYS FOR PLAINTIFF**

**CERTIFICATE OF SERVICE**

By my signature above, I, Robert W. Schmidt, certify that a true and correct copy of the above and foregoing document has been forwarded via Certified Mail - Return Receipt Requested to the following on this \_\_\_\_ day of August 2006:

Mr. William Deane  
Assistant Attorney General  
P.O. Box 12548  
Austin, Texas 78711

*Via Certified Mail – Return Receipt Requested*

## DEFINITIONS

For purposes of these interrogatories, the terms used herein shall have the following meanings:

A. “Document” and “documents” shall be used in their broadest sense and shall mean and include all written, printed, typed, recorded, electronic, computer, or graphic matter of every kind and description, both originals and copies, and all attachments and appendices thereto, that are in the possession, custody, or control of the attorney for Defendant. Without limiting the term “control,” a document is deemed to be within your control if you have ownership, possession or custody of the document, or the right to secure the document or copy thereof from any person or public or private entity having physical control thereof.

B. As used herein, the term “*defendant*” or “*Defendant*” is inclusive and shall include Texas Lottery Commission., its respective current and former officers, directors, partners, employees, servants, agents, attorneys, and shareholders, if any, of the referenced person(s) or entity and should be deemed to reflect gender and number as the text of the Requests for Production may require.

C. “Plaintiff” shall mean the plaintiff named in this lawsuit.

D. “You” and “your” shall mean the party to whom these interrogatories are directed, as well as all other persons acting or purporting to act in its behalf, including any current or former employee, agent, attorney, or other representative.

E. As used herein, the words “and” and “or” shall be construed either conjunctively or disjunctively as required by the context so that these interrogatories are construed in the broadest possible sense in keeping with the scope of the Texas Rules of Civil Procedure.

F. “Person” shall mean any individual, partnership, association, corporation, joint venture, firm, proprietorship, agency, board, authority, commission, or other legal or business entity.

G. To “identify” an individual means to state that individual’s:

1. name;
2. current or last known telephone numbers at business and home; and
3. current or last known business or home addresses.

H. To “identify” a person (as defined herein) other than an individual means to state:

1. its full name;
2. the nature of its organization;
3. the address and telephone number of its principle offices, and if applicable, the state in which it is incorporated; and

4. its principle line of business or activity.
- I. To “identify” an act, event, occurrence or communication means:
1. to state its date (*See* Instructions for these Interrogatories);
  2. to identify the persons that were parties to and witnesses of the act, event, occurrence or communication;
  3. to describe where and how it took place; and
  4. to identify any document that constitutes or refers to such act, event, occurrence or communication.
- J. To “identify” a file means:
1. to state the title contained thereon; and
  2. to identify the person for whom the file is maintained.
- K. To “identify” a statement means:
1. to identify who made it;
  2. to identify who took or recorded it;
  3. to identify all persons, if any, present during the making thereof;
  4. to state when, where and how it was taken or recorded; and
  5. to identify who has current or last known possession, custody or control thereof.
- L. To “identify” a document means:
1. to identify all files in which it and all copies are found;
  2. to identify its author
  3. to identify its addresses, if any;
  4. to identify those who received a copy thereof;
  5. to identify its current custodian or the person that had last known possession, custody or control thereof;
  7. to state the date of its preparation; and
  8. to state the general subject matter giving a reasonably detailed description thereof.
- M. To “identify” any other tangible things means:
1. to identify what it is, giving a reasonably detailed description thereof;
  2. to state when, where and how it was made, if applicable;
  3. to identify who made it, if applicable; and
  4. to identify its current custodian or the person that had last known possession, custody or control thereof.
  5. possession, custody or control thereof.

N. “Communication” shall mean and include every manner or means of disclosure, transfer, or exchange, and every disclosure, transfer, or exchange of information, whether orally or by document or whether face-to-face, by telephone, mail, personal delivery, electronic or computer transmission, or otherwise.

O. “Statement” means and includes any written or graphic statement signed or otherwise adopted or approved by the user making it, any stenographic, mechanical, electrical or other recording or transcription thereof which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

P. “Describe in detail” means to give a complete and full description concerning the matter about which inquiry is made, including the full name, address and telephone number of persons involved, if appropriate, along with dates, times, places, amounts and other particulars which make the answer to the interrogatory fair and meaningful.

## INSTRUCTIONS

A. For purposes of interpreting or construing the scope of any Interrogatory made herein, the terms used shall be given their most expansive and inclusive interpretations unless otherwise specifically limited in the Interrogatory itself. This includes, without limitation, the following:

- (1) construing "and" as well as "or" in the disjunctive or conjunctive as necessary to make the Request more inclusive; and
- (2) construing the singular form of the word to include the plural and the plural form of the word to include the singular.

B. When answering any interrogatory and/or describing or identifying any matter, provide any dates and times of any occurrence, event or communication, or any dates and times that are related to the information that is requested. If an exact date is not known, provide any other information that is known to identify the date or approximate date, including references to any other event, occurrence or communication and the chronology, dates or approximate dates of such event, occurrence or communication.

C. You shall answer the interrogatories separately and fully under oath.

D. These interrogatories shall be signed by the person to whom they are directed, or if a party is other than an individual, then the answers of said party shall be signed under oath by an officer or agent of the same with the authority to do so.

E. You and your attorney are under a duty to supplement your answers to these interrogatories by amending your answers if you or your attorney obtains information upon the basis of which:

- (1) you or your attorney knows that the answer though incorrect or incomplete when made; or
- (2) you or your attorney knows that the answer though correct and complete when made is no longer true and complete and the circumstances are such that failure to amend the answer is in substance misleading.

## **INTERROGATORIES**

**INTERROGATORY NO. 1:** Identify the person or persons answering these Interrogatories or who contributed information used in answering these Interrogatories. If more than one person provided the answers or contributed such information, identify the specific Interrogatories answered by each person and the information provided.

**ANSWER:**

**INTERROGATORY NO. 2:** Identify each and every allegation in Plaintiff's Original Petition and Jury Demand filed in this lawsuit which you assert is false or inaccurate and specifically describe in detail all facts, proof, or evidence that you claim prove these allegations to be false or inaccurate, and identify the true or accurate facts which demonstrate or prove the falsity or inaccuracy of such allegations.

**ANSWER:**

**INTERROGATORY NO. 3:** If you have ever talked to the Plaintiff or Plaintiff's co-workers, former co-workers, agents, servants, employees, friends, partners, or anyone who has or who may have knowledge of Plaintiff regarding Plaintiff's claims in this lawsuit or have any knowledge, either directly or indirectly, of any statement or admission of any kind made by Plaintiff or anyone acting on Plaintiff's behalf regarding Plaintiff's claims or any other fact that might be relevant to this lawsuit, describe in detail such statement and/or admission and identify who made the statement or admission, to whom it was made, and the date it was made.

**ANSWER:**

**INTERROGATORY NO. 4:** Describe in detail all facts, proof, or evidence which, in whole or in part, form the basis of any defense or affirmative defenses pled in this lawsuit.

**ANSWER:**

**INTERROGATORY NO. 5:** Identify each individual who participated in any manner in the decision to terminate Plaintiff including each individual Defendant consulted with and/or who provided information relating to the decision terminate Plaintiff and describe in detail the role of that person in the decision to terminate Plaintiff and/or the information provided by each individual.

**ANSWER:**

**INTERROGATORY NO. 6:** Identify any alleged grounds to impeach Plaintiff, including any evidence of prior bad acts, whether they be criminal or otherwise, identify the grounds for impeachment, any witness or other person with knowledge of relevant facts, and the date of the actions that form the basis for impeachment, and all evidence that supports your alleged grounds for impeachment.

**ANSWER:**

**INTERROGATORY NO. 7:** Please identify and describe in detail Plaintiff's work history with Defendant, including:



- a. dates of hire and separation (if applicable);
- b. Plaintiff's compensation during his employment, including all changes in salary or benefits and the reasons for such changes;
- c. job titles and dates employed in each position and a description of job duties for each position of employment held by Plaintiff;
- d. the names of any and all Plaintiff' supervisors and the dates during which each individual served as Plaintiff's supervisor;
- e. describe Plaintiff's attendance record, performance and productivity in his assigned duties during the course of his employment;
- f. describe the frequency and procedures for evaluating Plaintiff's job performance; and
- g. if Plaintiff was ever disciplined during the course of his employment, describe the cause of such discipline and the disciplinary procedures followed and exact dates of those procedures.

**ANSWER:**

**INTERROGATORY NO. 8:** Identify and describe in detail any internal complaint or allegation made to or filed with Defendant by any current or former employee of Defendant from the day Plaintiff began his employment with Defendant through the present, alleging that Defendant engaged in discriminatory, retaliatory, or illegal conduct.

**ANSWER:**

**INTERROGATORY NO. 9:** Identify and describe, in detail, any external complaint or allegation made or filed against Defendant by any current or former employee of Defendant alleging that Defendants engaged in discriminatory, retaliatory, or illegal conduct during the past five years. This Interrogatory includes, but is not limited to, all complaints filed with the City of Austin Equal Employment And Fair Housing Office (f/k/a Austin Human Rights Commission), Texas Workforce Commission, Civil Rights Division and the U.S. Equal Employment Opportunity Commission as well as any lawsuits filed against Defendant Texas

Lottery Commission in any court alleging discriminatory or retaliatory conduct against Defendant or violations of the Texas Whistleblower Act.

**ANSWER:**

**INTERROGATORY NO. 10:** Please identify each and every individual employed by Defendant Texas Lottery Commission in the period of time beginning one year prior to Plaintiff's employment through the present date who held or holds the same or similar position, title, job duties or job description as Plaintiff.

**ANSWER:**

**INTERROGATORY NO. 11:** Describe in detail any investigations conducted by Defendant Texas Lottery Commission relating to the performance or conduct of any individual employed by Defendant Texas Lottery Commission during the period of time beginning one year prior to Plaintiff's employment through the present who held or holds the same or similar position, title, job duties or job description as Plaintiff.

**ANSWER:**

**INTERROGATORY NO. 12:** Describe in detail any disciplinary actions, terminations, reprimands, counseling, write-ups, demotions, or other adverse employment actions taken by Defendant Texas Lottery Commission against any individual employed by Defendant Texas Lottery Commission in the period of time beginning one year prior to

Plaintiff's employment through the present who held or holds the same or similar position, title or job description as Plaintiff.

**ANSWER:**

**INTERROGATORY NO. 13:** Identify any individual(s) employed by Defendant Texas Lottery Commission during the period of time beginning one year prior to Plaintiff's employment through the present against whom an allegation, accusation or finding was made that such employee engaged in misconduct of any kind and describe in detail any disciplinary actions, terminations, counselings, write-ups, demotions, or other adverse employment actions that were taken by Defendant Texas Lottery Commission against such individual(s).

**ANSWER:**

**INTERROGATORY NO. 14:** Identify any individual(s) employed by Defendant Texas Lottery Commission who have been investigated, written up, disciplined, reprimanded or otherwise accused of or cited for insubordination or acts that could be considered insubordination and describe in detail the allegations against the employee and any disciplinary actions taken by Defendant.