

STATE OF SOUTH CAROLINA	)	BEFORE THE SOUTH CAROLINA
	)	PROCUREMENT REVIEW PANEL
COUNTY OF RICHLAND	)	
	)	CASE NO. 2002-4
In re:	)	
Petition for Administrative Review	)	
	)	ORDER
	)	
GTECH Corporation	)	MOTIONS TO QUASH SUBPOENAS
vs.	)	
South Carolina Education Lottery	)	
	)	

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This case involves a petition for administrative review of a matter involving the South Carolina Education Lottery ("SCEL") filed with the Procurement Review Panel ("Panel") by GTECH Corporation ("GTECH"). GTECH is represented by E. Wade Mullins, Esquire. SCEL is represented by M. Elizabeth Crum, Esquire. The recipients of subpoenas filed by GTECH on April 26, 2002 and executed by the Panel's attorney on April 29, 2002 filed Motions to Quash on May 1, 2002, May 2, 2002 and May 3, 2002. Dr. Mathew Dezee and Tom Fletcher are represented by Edwin E. Evans, Esquire. Scientific Games International, Inc. ("SGI") is represented by Daryl L. Williams, Esquire. This Order is issued on this third day of May, 2002 without conducting a hearing and decides only the issues raised in regards to the subpoenas issued on April 30, 2002.

**FINDINGS OF FACT**

The following facts are relevant to the motions to quash. On April 26, 2002, GTECH requested that the Panel issue the following subpoenas:

- Subpoena Duces Tecum - (1) Ernie Passailaigue, Executive Director, SCEL  
(2) Tom Fletcher, Deputy Director, Office of Information Resources  
(3) Dr. Matthew Dezee, Chief Information Officer  
(4) William J. Huntley, President, Scientific Games  
(5) William DiStefano, Vice-President, Scientific Games
- 30 (b) (6) Subpoena - (1) Scientific Games  
(2) AT&T
- Hearing Subpoenas - (1-9) Ernie Passailaigue, C. B. Smith, Matthew Dezee, Tom  
Fletcher, Liz Mason, William Huntley, William DeStefano,  
Christopher Coker, and Ralph Garcia.

On May 1, 2002, SCEL submitted a Motion to Quash Petitioner's Subpoenas Duces Tecum and Hearing Subpoenas. On May 2, 2002, counsel for Matthew DeZee and Tom Fletcher submitted an Objection and Motion to Quash or for Protective Order in response to Petitioner's Deposition Subpoena Duces Tecum and Hearing Subpoena. On May 3, 2002, counsel for SGI submitted an Objection and Motion to Quash Petitioner's Subpoenas Duces Tecum and Hearing Subpoenas.

### CONCLUSIONS OF LAW

SC Code §11-35-4410(4) provides in part the following:

Jurisdiction. Notwithstanding the provisions of Section 1-23-10, et seq. or any other provisions of law, the Procurement Review Panel shall be vested with the authority to: (a) establish its own rules and procedures for the conduct of its business and the holding of its hearings; (b) issue subpoenas...

Under the Protection of Persons Subject to Subpoenas adopted by the Panel the following is stated:

On timely, motion, the SC Procurement Review Panel, regarding a subpoena commanding production or inspection directed to a nonparty, will quash or modify the subpoena if it: (1) fails to allow reasonable time for compliance; or (4) subjects a person to undue burden ...

South Carolina Rules of Evidence Rule 102 provides:

These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined.

South Carolina Rules of Evidence Rule 401 provides:

"Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.

South Carolina Rules of Evidence Rule 402 provides in part:

Evidence which is not relevant is not admissible.

The Panel finds that the Subpoenas Duces Tecum to Tom Fletcher, Dr. Matthew Dezee, William J. Huntley, and William DiStefano are not relevant to the issue of jurisdiction to be decided by the Panel on May 8, 2002 and are hereby quashed.

The Panel finds the Subpoena Duces Tecum to Ernie Passailaigue is relevant to the Panel's hearing as modified, a copy of which is attached hereto.

The Panel finds that the 30 (b) (6) Subpoenas to Scientific Games and AT&T are not relevant to the issue of jurisdiction to be decided by the Panel and because these are nonparties to the hearing in question these subpoenas also pose an undue burden and are hereby quashed.

The Panel finds that the Hearing Subpoenas to Ernie Passailaigue, C. B. Smith, Matthew Dezee, Tom Fletcher, Liz Mason, William Huntley, William DeStefano, Christopher Coker, and Ralph Garcia are not relevant to the issue of jurisdiction to be decided by the Panel and are hereby quashed. Furthermore, the Panel will not here testimony on May 8, 2002 because all parties were extended an opportunity to provide briefs on the issue of jurisdiction and those memorandums that were submitted may properly be supplemented by argument on the issue of jurisdiction.

CONCLUSION

For the reasons stated above, the Panel hereby quashes the subpoenas issued on May 30, 2002, with the exception of one subpoena issued to Ernie Passailaigue in regards to the production of documents which may provide evidence related to the Cover Agreement which is the subject of GTECH's petition.

IT IS SO ORDERED.

SOUTH CAROLINA PROCUREMENT REVIEW PANEL

BY Patricia T. Smith  
Patricia T. Smith, Chairman

Columbia, South Carolina

May 3, 2002.