



Publisher
Dawn Nettles

www.lottoreport.com
www.texaslottoreport.com

Where drawing results and payouts are posted after each drawing and where you can read about the games of Texas. Plus ... much more!

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July 28, 2020

Ms. Deanne Rienstra
Texas Lottery Commission
P. O. Box 16630
Austin, Texas 78761-6630

Ms. Rienstra:

Thank you very much for your July 9th response to my June 15th letter regarding a 36 hour per year time limit that TLC personnel would spend providing public information to Advertising by Dawn, dba lottoreport.com. In April, I asked Elizabeth to have you call so we could settle this issue but you didn't returned my phone call.

I do not agree with the assessment that "news mediums" or "journalists" must be a "for profit" or a "livelihood" to be defined as such. It is indisputable - lottoreport.com is a "news" site - 100% and that alone should qualify for an exemption.

Your letter said, "*We are aware that you have provided sworn deposition testimony, excerpts of which are attached hereto, stating that you do not charge money or receive other compensation for "The Lotto Report" blog/website. Accordingly, you do not qualify for the exemption under PIA section 5522.275(J)*"

First, let me say, I stand behind every word in my deposition. I answered every question asked to the best of my ability and memory. It is absolutely true that I derive no income from lottoreport.com. It is also true I no longer earn money from publishing and selling *The Lotto Report* - which was a bi-weekly publication - that ceased publication in 2013.

Your letter prompted me to take two extremely time consuming actions. One, I re-read my 130 page deposition twice to confirm what I recalled and two, I took a trip down memory lane.

By using my deposition as the Holy Bible, it appears to me that the TLC has drawn conclusions based on **incomplete information**. I would like to suggest that you re-read the deposition then show me where Ken, the attorney, ever asks if I designed, created or produced any other magazines, newsletters, publications, reports, titles after creating the *Lotto Report* in 1993. Had he asked, I would have told him about the *Pick3 Combination Report* that I still sell by single copies (\$8.95), 6 month subscriptions (\$67) or 12 month subscription (\$129).

I "thought" he was going to ask that very question but in the end, he did not. Page 26, lines 1-7, reads - "*Q. All right. And since that time, whenever that was, approximately two years ago, then you just have this blog or Web site **or what do you -- what -- how do you refer it?** A. Just The Lotto Report Web site. Q. Okay. So what happened to your subscription list?" I answered his direct question - "Q: How do you refer it?" "A: Just the Lotto Report website," I replied.*

About my trip down memory lane that I felt was required to prove the existence of the Pick3 Combinations Report. But first, I need to clarify a few things - Saving Files, Back Issues & Intent.

Saving Files: In my sworn deposition, you will find where I gave testimony that I keep the same file names so when I edit a file, it re-writes over the previously saved file. This not only applies to my website files, but it also applies to my current and previous publication files in a program called Quark.

Because I don't have earlier versions of webpages posted, I'm using a site, wayback-machine.org, to produce these pages. They crawl the internet taking snapshots of webpages. By using previous postings, I can prove the existence of The Pick3 Combinations Report since 1998 through present date and it was for financial gain. (There was no internet in 1995 - therefore, it would require simple "logic" to believe the report was published then)

Back Issues: In my testimony, you'll see where the The Lotto Report was distributed via US mail and by email. Therefore, I have hard copies of all Lotto Reports published. As for providing back issues of the Pick3 Combinations Report, unlike The Lotto Report, there are no hard copies because it's never been printed commercially. My original file has been edited after every Pick3 drawing since 1993 and it's retained the same file name. Every two weeks (Sundays for the most part - some exceptions), I'd send out a new P3 Report. I'd create a pdf in Quark but the pdf always retained the same file name too. Much like the TLC's "Weekly_Sales_Summary.pdf" which has the same name week after week and has for many, many years - and I'd bet our reasons are identical.

Fortunately for me, I found back issues of The Pick3 Combination Report that had been posted on my site dating back to 2000. For posting on my site, I'd rename the pdf that had been sent to subscribers and I would also delete the first three pages. Though you'll find two that includes all 19 pages plus the July 5, 2020 and the July 19, 2020 editions includes all 30 pages. Upon inspection, you will be able to see the original date each pdf was made. (I do have more back issues should you want to see more than I've provided.)

I've created a web page where I'm providing back issues of The Pick3 Combination Report and links to old webpages. I felt it was better and easier to provide this information via a page on the internet rather than attaching to an email as the information is massive. The web address is and it is CASE sensitive ...

<http://www.lottoreport.com/rienstra071520.htm>

Intent -The initial and sole purpose of lottoreport.com was branding, promoting and selling The Lotto Report. My site went up for the first time on March 29, 1998 and while The Pick3 Report was shown on the home page (see Exhibit 1) and various other pages, I never tried to sell it - "per se" - via my site. Rather, I focused 100% on selling players the Lotto Report because it was the media I "thought" was best suitable for Texas lottery players. As fate would have it, I was wrong in my assessment.

It's also important to note that the Pick3 Combinations Report existed and was created out of demand. I never sought branding for it.

How the Pick3 Report Came To Be:

In 1995, I received a phone call from a player requesting additional information on the Pick3 game. At that time, there was no internet and no email. We had an enlightening conversation. Bottom line, he was specifically seeking a list of all Pick3 combinations, dates drawn and combinations never drawn. It just so happened that I had that very information. (See page 19, lines 19 - 24 of my deposition)

I mailed him the data at NO CHARGE. At that time, it was only a few pages. After that call, I began to receive more calls. I mailed that same, but updated information, a number of times at no charge. Then I realized it was getting to be too much so I decided to start charging \$2.95. No one ever objected to the cost. These calls were a direct result of players finding me via purchasing The Lotto Report found in the stores.

I assumed players would convert the document I sent them into a text document by scanning it and would be able to keep the information current themselves. But like I said on my website back in 1999 - and it's still there today - players wouldn't track the data themselves as I **intended** or thought they would. Rather, they just kept ordering new editions so I decided to offer subscriptions. But the option of maintaining the data themselves was ALWAYS offered so this publication never competed with The Lotto Report on my website. I saw to that.

In Exhibit 1, you will see where in 1999, I published, on the cover of The Lotto Report, "Check Out Our New Electronic Pick3 Report." Examples shown are covers from April 1999 and November 1999.

Since the Pick3 Combination Report had been posted on my website from 1998 through today's date, and the Texas Lottery watches my site daily, one would think they certainly knew about it.

FY	Lotto Sales	Pick3 Sales
FY93	\$767,755,147	N/A
FY94	\$1,173,785,320	\$133,242,909
FY95	\$1,178,828,428	\$141,077,588
FY96	\$869,258,961	\$145,217,209
FY97	\$906,325,524	\$158,549,126
FY98	\$801,244,058	\$180,259,546
FY99	\$714,715,890	\$183,658,933
FY00	\$583,467,709	\$195,192,187
FY01	\$695,170,106	\$206,756,648
FY02	\$593,990,028	\$236,420,363
FY03	\$526,324,482	\$261,154,370
FY04	\$477,820,034	\$277,253,684
FY05	\$306,657,770	\$284,950,898
FY06	\$241,708,005	\$295,385,095
FY07	\$232,508,254	\$312,676,112
FY08	\$204,616,691	\$292,896,065
FY09	\$200,516,500	\$290,794,051
FY10	\$255,893,248	\$274,895,696
FY11	\$172,499,264	\$279,769,125
FY12	\$169,690,599	\$279,635,470
FY13	\$146,550,658	\$274,032,386
FY14	\$135,608,856	\$259,436,835
FY15	\$123,373,545	\$256,839,365
FY16	\$120,296,888	\$260,161,247
FY17	\$112,735,346	\$255,451,625
FY18	\$115,119,050	\$261,738,770
FY19	\$108,301,965	\$251,770,172
*FY20	*\$97,045,224	*\$226,430,747

*TLC Weekly Sales Summary, Week Ending July 18, 2020

NOTE
 I've often wondered what impact my Pick3 Report and the posting of Pick3 Predictions (2000) played in the increased sales and popularity of Pick3. The 4 draws per day rule (2013) impacted sales negatively (loss of revenue to the state) and my readership declined as well.
 Thanks TLC for another bad decision.

In fact, I know the Texas Lottery was aware that I'd been selling this very successful report for many years as evidenced in February 2007. That's when Sarah Woelk called several times to discuss my "Sum Theory" and to discuss an add-on to Pick3 initially named "EZ Sum" or "Easy Sum." During those calls in 2007, I shared the tremendous results I had from posting Pick3 Predictions - beginning in 2000 - that resulted in huge sales of my Pick3 Combination report. It was a strategy in playing Pick3 making the game fun.

Email To Sarah Woelk

2-22-07

Sarah,

If I don't send this now, I'll forget. A few names have come to me for the Lucky Sum feature and they are "Sum 'Em Up," "Sum The Numbers," "Total Sum," "Sum Total," "Challengin' Sum," "Challenging Sum," "Chance Sum" and just "Sum 'Em."

I like "Sum 'EM" best but I'm still thinking.

For the record, IF the TLC uses anything that I might think of, you owe me nothing. There will be no lawsuits for using my idea. I'm just trying to help - I've found the more ideas one gets from others, the greater your chances of coming up with something unique.

I also shared with Sarah how many of my Lotto Report subscribers had switched over to playing Pick3 rather than Lotto Texas out of disgust to the rule changes. (*As evidenced by sales shown on page 3.*) From her calls and emails, I surmised that the Texas Lottery was more concerned that by adding "Sum It Up" to the Pick3 game, I'd accuse them of copying me. So I told her I wouldn't and put it in writing in an email dated 2/22/07. (On left)

The Pick 3 game, is by far, the most popular online game the Texas Lottery offers. And while my "report" is different in that it's never been printed commercially and is ONLY available by email, it has been my financial salvation for many, many years. The beauty of this format is that I have the freedom and space to include editorials and other game information at my pleasure. Subscribers never know what they're going to receive in the next report.

Bottom line, I am a publisher, reporter, news medium who "disseminates" information that is of "public interest" and it is my SOLE source of "financial gain," "livelihood" and I'm "self supporting" as testimony revealed. As such, I

should qualify for exemption from time limits on open records request under Gov Code 552.275 (j).

Attached you will find the July 19th Edition of the Pick3 Combination Report for your perusal. I trust the Texas Lottery will reconsider it's decision as to my qualifications under Gov Code 552.275 (j).

Sincerely,

Dawn Nettles
Publisher

Attachments: July 19, 2020 Pick3 Combination Report.pdf
Balance of attachments: <http://www.lottoreport.com/rienstra071520.htm>

cc: The Honorable Senator Jane Nelson
Attorney General Ken Paxton, Open Records Division
Kelly Shannon, Freedom of Information
Harvey Kronberg, Quorum Report
Jeff Kelly Lowenstein
Dave Lieber, Dallas Morning News
Eric Dexheimer, Houston Chronicle
Ken Herman, Austin American Statesman

- Exhibit 1 -

Examples of what you will find at ...

<http://www.lottoreport.com/rienstra071520.htm>



A scan showing the cover of The Lotto Report as it appeared in the stores in 1999.

Home Page
www.lottoreport.com

This graphic was located at the bottom of the home page from 1998 - Oct 2003.

2004 - Page edited a number of times due to rule changes

Home page changed to include a complete description of the Pick3 Report. It remained there from 2004 - 2010 when the home page was completely redesigned. The P3 information was then moved to another page plus it had always been on the subscription page.



Publisher Of
the
LOTTO REPORT .com

"The Racing Form of The Texas Lottery"

And ...

the Pick3 Report

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The Description Read

"By popular demand ... "The Pick3 Combinations Report" The "Pick3 Combinations Report" shows each Pick3 combination, times it was drawn, the date each was drawn and a list of "never drawn." The list is updated daily and it can be obtained via email in pdf format OR printed and sent to you by US Mail. After you get the initial list, you can then simply maintain it yourself."

"Click here to see sample of "Pick3 Combinations" (A pdf - as of 9-14-03 - Only 1st page of report is shown and it's easier to read if you magnify). Click here to order ... a secure page." (\$4.95)